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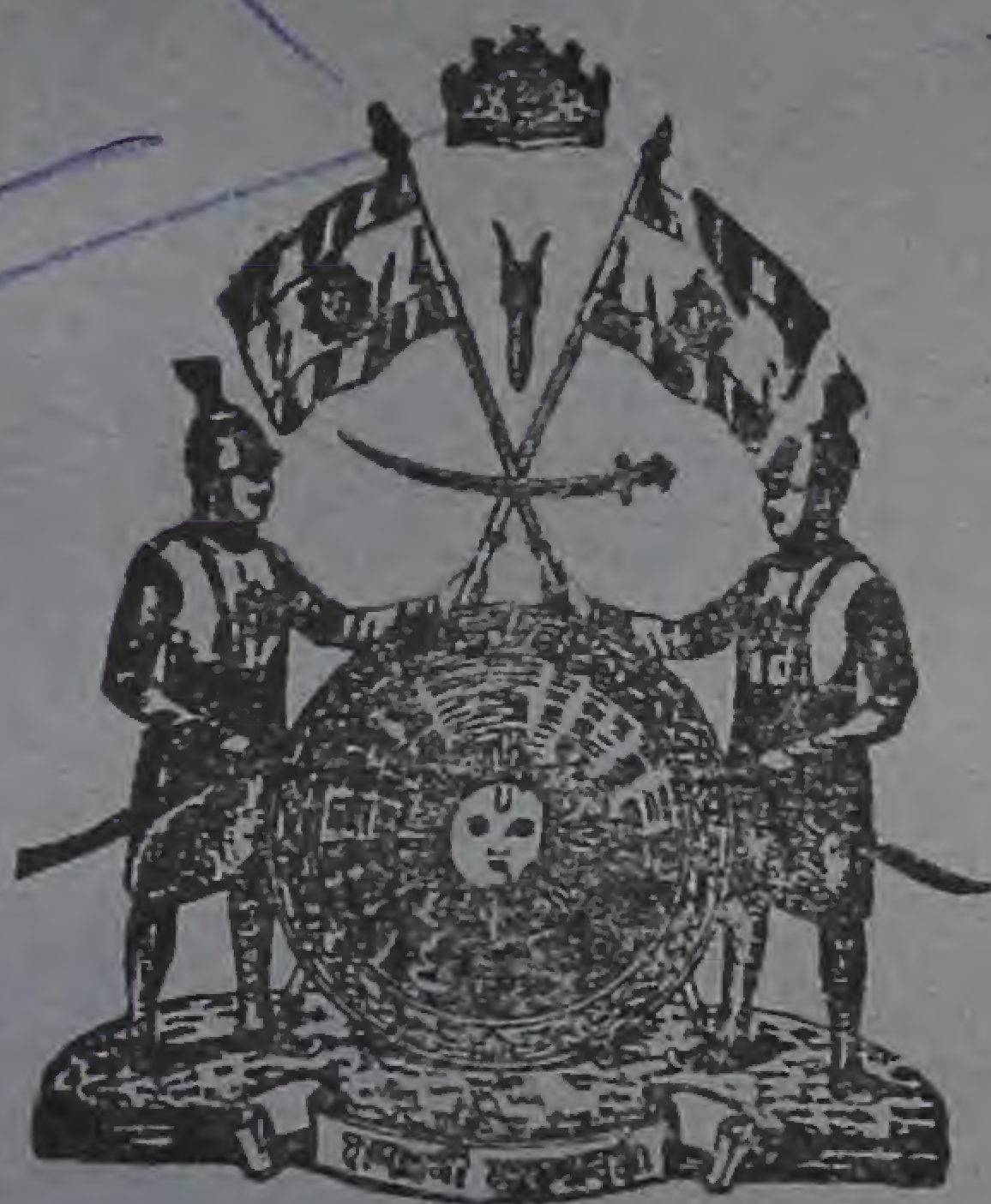
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REGULATION No. XV OF 1996.

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Business of Insurance.**

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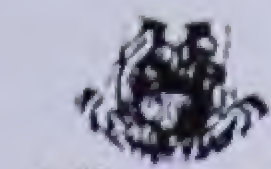
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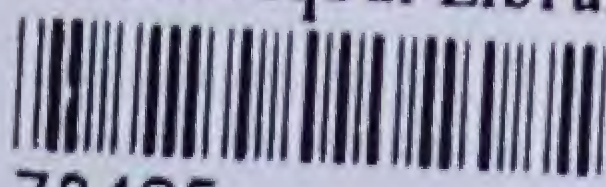
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HIS HIGHNESS' GOVERNMENT, JAMMU AND KASHMIR.

PRAJA SABHA SECRETARIAT.

REGULATION No. XV OF 1996.

**A Regulation to provide for the regulation of the
Business of Insurance.**

WHEREAS it is expedient to provide for the regulation of the Business of Insurance, it is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Regulation may be called the Jammu and Kashmir Insurance Regulation, 1996.

(2) It extends to the whole of Jammu and Kashmir State.

(3) It shall come into force on such date as the Government may by notification in the Government Gazette, appoint in this behalf.

2. *Definitions.*—In this Regulation unless there is anything repugnant in the subject or context :—

(1) "actuary" means an actuary possessing such qualifications as may be prescribed ;

(2) "Policy-holder" means the person who for the time being is a legal holder of the policy and includes the person who is the absolute assignee of the benefits under the policy ;

(3) "approved securities" means securities for money issued under the authority of any Act of a Legislature established in British India and include debentures or other securities issued under the authority of His Highness' Government in this behalf ;

(4) "auditor" means a person qualified under the provisions of section 144 of the Companies Regulation, to act as an auditor of companies ;

(5) "certified" in relation to any copy or translation of a document required to be furnished by or on behalf of an insurer means certified by a principal officer of the insurer to be a true copy or a correct translation, as the case may be ;

- (6) "Court" means the principal civil court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction ;
- (7) "Prescribed" means prescribed by rules made under this Regulation ;
- (8) "insurance company" means any insurer being a company, association or partnership which may be wound up under the Companies Regulation or to which the Partnership Regulation applies ;
- (9) "insurer" means—
- (a) any individual or unincorporated body of individuals or body corporate incorporated under the law of any country other than the State carrying on insurance business which—
 - (i) carries on that business within the State or
 - (ii) has his or its principal place of business within the State ;
 - (iii) with the object of obtaining insurance business, employs a representative, or maintains a place of business in the State ;
 - (b) any body corporate carrying on the business of insurance, which is a body corporate incorporated under any law for the time being in force in the State, or stands to any such body corporate in the relation of a subsidiary company within the meaning of the Companies Regulation as defined by sub-section (2) of section 2 of that Regulation ;
- (10) "insurance agent" means an insurance agent licensed under section 41 being an individual who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business ;
- (11) "life insurance business" includes annuity business, that is to say, the business of effecting contracts of insurance for the granting of annuities on human life and, if so provided in the contract of insurance, disability and double indemnity accident benefits ;
- (12) "manager" and "officer" have the meanings assigned to those expressions in clauses (9) and (11) respectively of section 2 of the Companies Regulation ;
- (13) "managing agent" means a person, firm or company entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the control and direction of the directors except to the extent, if any, otherwise

provided for in the agreement, and includes any person, firm or company occupying such position by whatever name called ;

Explanation.—If a person occupying the position of managing agent calls himself manager or managing director, he shall nevertheless be regarded as managing agent for the purposes of section 31 of this Regulation ;

- (14) "Superintendent of Insurance" means the officer appointed by the Government to perform the duties of the Superintendent of Insurance under this Regulation ;
- (15) "State" means the Jammu and Kashmir State.

PART II.

PROVISIONS APPLICABLE TO INSURERS.

3. *Registration.*—(1) No insurer shall, after the commencement of this Regulation begin to carry on any class of insurance business within the State and no insurer carrying on any class of insurance business in the State shall, after the expiry of one year from the commencement of this Regulation continue to carry on any such business, unless he has obtained from the Superintendent of Insurance a certificate of registration.

(2) Every application for registration shall be accompanied by—

(a) a certified copy of the memorandum and articles of association, where the applicant is a company and incorporated under the Companies Regulation or, in the case of any other insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, a certified copy of the deed of partnership or of the deed of constitution of the company, as the case may be, or, in the case of an insurer having his principal place of business outside the State, the document specified in clause (a) of section 60 ;

(b) the name, address and the occupation, if any, of the directors where the insurer is a company incorporated under the Companies Regulation, and in the case of an insurer specified in sub-clause (a) (ii) of clause (9) of section 2 the names and addresses of the proprietors and of the manager in the State and in any other case the full address of the principal office of the insurer and the names of the directors and the manager at such office and the name and address of some one or more persons resident in the State authorised to accept any notice required to be served on the insurer ;

- (c) a statement of the class or classes of insurance business done or to be done, and a statement that the amount required to be deposited by section 7 before application for registration is made has been deposited together with a certificate from the Government treasury showing the amount deposited;
- (d) in the case of an insurer having his principal place of business outside British India a statement verified by an affidavit made by the principal officer of the insurer setting forth the requirements (if any) not applicable to nationals of the country in which such insurer is constituted, incorporated or domiciled which are imposed by the laws or practice of that country upon Indian nationals as a condition of carrying on insurance business in that country;
- (e) a certified copy of the published prospectus, if any, and of the standard policy forms of the insurer and statement of the assured rates, advantages, terms and conditions to be offered in connection with insurance policies together with a certificate in connection with life insurance business by an actuary that such rates, advantages, terms and conditions are workable and sound;

Provided that in the case of accident and miscellaneous insurance business other than workmen's compensation and motor car insurance the above requirements regarding prospectus, forms and statements shall be complied with, only so far as prospectus, forms and statements may be available; and

- (f) the prescribed fee for registration being not more than one hundred rupees for such class of business.

(3) In the case of any insurer having his principal place of business or domicile outside British India the Superintendent of Insurance shall withhold registration or shall cancel a registration already made, if he is satisfied that in the country in which such insurer has his principal place of business or domicile Indian nationals are debarred by the law or practice of the country relating to, or applied to, insurance from carrying on the business of insurance, or that any requirement imposed on such insurer under the provisions of section 61 and section 62 is not satisfied.

(4) In the case of any insurer the Superintendent of Insurance shall cancel a registration already made if the insurer fails to comply with the provisions of section 7 as to deposits.

(5) When the Superintendent of Insurance withholds or cancels any registration under sub-section (3) or sub-section (4) he shall give notice in writing to the insurer of his decision and

the decision shall take effect on such date as he may specify in that behalf in the notice, such date not being less than one month nor more than two months from the date of the receipt of the notice in the ordinary course of transmission.

(6) The Superintendent of Insurance shall, on being satisfied that the applicant has fulfilled all the requirements of the Regulation applicable to him, grant the insurer a certificate of registration.

4. *Minimum limit for annuities and other benefits secured by policies of life insurance.*—(1) No insurer shall pay or undertake to pay on any policy of life insurance issued after the commencement of this Regulation an annuity of twenty-five rupees or less or a gross sum of rupees two hundred and fifty or less exclusive of any profit or bonus provided that this shall not prevent an insurer from converting any policy into a paid up policy of any value or payment of surrender value of any amount.

(2) Nothing contained in this section shall apply to group policies, that is to say, policies in respect of a group of persons engaged in the same occupation or kindred occupations under a single employer, for an aggregate sum of not less than rupees five thousand, under which an insurer pays or undertakes to pay a gross sum of rupees five hundred or less on an individual life.

5. *Restriction on name of insurer.*—(1) An insurer shall not be registered by a name identical with that by which an insurer in existence is already registered, or so nearly resembling that name as to be calculated to deceive except when the insurer in existence is in the course of being dissolved and signifies his consent to the Superintendent of Insurance.

(2) If an insurer, through inadvertence or otherwise, is without such consent as aforesaid registered by a name identical with that by which an insurer already in existence whether previously registered or not is carrying on business or so nearly resembling it as to be calculated to deceive, the first-mentioned insurer shall, if called upon to do so by the Superintendent of Insurance on the application of the second-mentioned insurer, change his name within a time to be fixed by the Superintendent of Insurance.

6. *Requirements as to capital.*—No insurer shall be registered unless he has as working capital a net sum of not less than twenty-five thousand rupees exclusive of the deposit to be made before registration under this Regulation.

7. *Deposits.*—(1) Every insurer shall, in respect of the insurance business carried on by him in the State deposit and keep deposited with the Government cash or approved securities, estimated at the market value of the securities on the day of

deposit, of the amount hereafter specified, namely :—

- (a) Where the business done or to be done is life insurance only, fifty thousand rupees ;
- (b) where the business done or to be done is fire insurance only, thirty thousand rupees ;
- (c) where the business done or to be done is accident and miscellaneous insurance including workmen's compensation, and motor car insurance, thirty thousand rupees ;
- (d) where the business done or to be done includes life insurance and any one or both of the two classes specified in clauses (b) and (c), one lac rupees of which fifty thousand rupees shall be deposited for life insurance business ;
- (e) where the business done or to be done does not include life insurance but includes all classes specified in clauses (b) and (c), sixty thousand rupees.

(2) The deposit may be made by an insurer in instalments of not less than one-fourth the total amount before the application for registration is made, not less than one-third the balance before the expiry of one year from the commencement of business in the State, and the balance before the expiry of three years from the commencement of business in the State :

Provided that in the case of any insurer not being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 and not being an insurer incorporated in or domiciled in the United Kingdom or India, the deposit shall be made in full before the application for registration is made.

(3) No class of insurance business in addition to the class or classes in respect of which an insurer is already liable to make a deposit under sub-section (1) or sub-section (2) shall be undertaken by the insurer until the deposit to which he is already liable has been made in full, and the additional deposit required in respect of the additional class of business or so much thereof as under the provisions of this section is to be made before the application for registration, has also been made in full.

(4) If any part of a deposit made under this section is used in the discharge of any liability of the insurer the insurer shall deposit such additional sum in cash or approved securities as will make up the amount so used. The insurer shall be deemed to have failed to comply with the requirements of sub-section (1), unless the deficiency is supplied within a period of two months from the date when the deposit or any part thereof is so used for discharge of liabilities.

8. *Reservation of deposits.*—(1) Any deposit made under section 7 shall be deemed to be part of the assets of the insurer but shall not be susceptible of any assignment or charge ; nor shall it be available for the discharge of any liability of the insurer other than, liabilities arising out of policies of insurance issued by the insurer so long as any such liabilities remain undischarged ; nor shall it be liable to attachment in execution of any decree except a decree obtained by a policy-holder of the insurer in respect of a debt the policy-holder has failed to realise in any other way.

(2) Where a deposit is made in respect of life insurance business the deposit made in respect thereof shall not be available for the discharge of any liability of the insurer other than liabilities arising out of policies of life insurance issued by the insurer.

9. *Refund of deposits.*—Where an insurer has ceased to carry on in the State any class of insurance business in respect of which a deposit has been made under section 7 and his liabilities in the State in respect of business of that class have been satisfied or are otherwise provided for, the Court may, on the application of the insurer, order the return to the insurer of so much of the deposit as does not relate to the classes of insurance, if any, which he continues to carry on.

10. *Separation of accounts and funds.*—(1) Where the insurer carries on business of more than one of the classes specified in sub-section (1) of section 7, he shall keep a separate account of all receipts and payments in respect of each such class of insurance business.

(2) Where the insurer carries on the business of life insurance, the excess of receipts over payments in respect of such business shall be carried to and shall form a separate fund to be called the life insurance fund and the deposit made by the insurer in respect of life insurance business shall be deemed to be part of such fund

(3) The life insurance fund shall be as absolutely the security of the life policy-holders as though it belonged to an insurer carrying on no other business than life insurance business and shall not be liable for any contracts of the insurer for which it would not have been liable had the business of the insurer been only that of life insurance and shall not be applied directly or indirectly save as provided in section 48 for any purposes other than those of life insurance.

11. *Accounts and balance-sheet.*—(1) Every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all insurance

business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in the State, shall at the expiration of each calendar year prepare with reference to that year—

- (a) in accordance with the instructions contained in Part I of the first Schedule a balance-sheet in the form set forth in Part II of that Schedule ;
- (b) in accordance with the instructions contained in Part I of the second Schedule a profit and loss account in the forms set forth in Part II of that Schedule, except where the insurer carries on business of one class only of the classes specified in sub-section (1) of section 7 and no other business ;
- (c) in respect of each class of insurance business carried on by him in accordance with the instructions contained in Part I of the third Schedule, a revenue account in the form or forms set forth in Part II of that Schedule applicable to that class of insurance business.

(2) Unless the insurer is a company to which the Companies Regulation applies, the accounts and statements referred to in sub-section (1) shall be signed by the insurer, or in the case of a company, by the chairman, if any, and two directors and the principal officer of the company, or in the case of a firm by two partners of the firm, and shall be accompanied by a statement containing the names and descriptions of the persons in charge of the management of the business during the period to which such accounts and statements refer and by a report by such persons on the affairs of the business during that period.

12. *Audit*.—The balance-sheet, profit and loss account, revenue account and profit and loss appropriation account of every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him, shall, unless they are subject to audit under the Companies Regulation in the State be audited annually by an auditor, and the auditor shall in the audit of all such accounts have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section 145 of the Companies Regulation.

13. *Actuarial report and abstract*.—(1) Every insurer carrying on life insurance business shall, in respect of life insurance business transacted by him in the State, and also in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b)

of clause (9) of section 2 in respect of all life insurance business transacted by him, once at least in every five years cause an investigation to be made by an actuary into the financial condition of the life insurance business carried on by him, including a valuation of his liabilities in respect thereto and shall cause an abstract of the report of such actuary to be made in accordance with the instructions contained in Part I of the fourth Schedule and in conformity with the requirements of Part II of that Schedule.

(2) The provisions of sub-section (1) regarding the making of an abstract shall apply whenever at any other time an investigation into the financial condition of the insurer is made with a view to the distribution of profits or an investigation is made of which the results are made public.

(3) There shall be appended to every such abstract as is referred to in sub-section (1) or sub-section (2) a certificate signed by the principal officer of the insurer that full and accurate particulars of every policy under which there is a liability either actual or contingent have been furnished to the actuary for the purpose of the investigation.

(4) There shall be appended to every such abstract a statement, in conformity with the requirements of Part II of the fifth Schedule, and prepared in accordance with the instructions contained in Part I of that Schedule, of the life insurance business in force at the date to which the accounts of the insurer are made up for the purposes of such abstract:

Provided that if the investigation referred to in sub-sections (1) and (2) is made annually by any insurer, the statement need not be appended every year but shall be appended at least once in every five years.

(5) Where an investigation into the financial condition of an insurer is made as at a date other than the expiration of the year of account, the accounts for the period since the expiration of the last year of account and the balance-sheet as at the date at which the investigation is made shall be prepared and audited in the manner provided by this Regulation.

14. *Register of policies and register of claims.*—Every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of sub-clause (9) of section 2 in respect of all business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in the State shall maintain—

(a) a register or record of policies, in which shall be entered, in respect of every policy issued by the insurer, the name and address of the policy-holder, the date when the policy was effected and a record of any

transfer, assignment or nomination of which the insurer has notice, and

- (b) a register or record of claims, in which shall be entered every claim made together with the date of the claim, the name and address of the claimant and the date on which the claim was discharged, or, in the case of a claim which is rejected, the date of rejection and the grounds therefor.

15. *Submissions of returns.*—(1) The audited accounts and statements referred to in section 11 and the abstract and statement referred to in section 13 shall be printed, and four certified copies thereof shall be furnished as returns to the Superintendent of Insurance within six months from the end of the period to which they refer. The Superintendent of Insurance may extend the time allowed for furnishing the abstract and statement referred to in section 13 by a period not exceeding three months :

Provided that the said period of six months shall in the case of insurers having their principal place of business or domicile outside the State and in the case of insurers constituted, incorporated in the State but also carrying on business outside the State be extended by three months, and provided further that the Government may in any case extend the time allowed by this sub-section for the furnishing of such returns by a further period not exceeding three months.

(2) Of the four certified copies so furnished one shall be signed in the case of a company by the chairman and two directors and by the principal officers of the company and, if the company has a managing director or managing agent, by that director or managing agent, in the case of a firm, by two partners of the firm, and, in the case of an insurer being an individual, by the insurer himself.

(3) Where the insurer's principal place of business or domicile is outside the State he shall forward to the Superintendent of Insurance, along with the documents referred to in section 11, the balance-sheet, profit and loss account and valuation statements, if any, which the insurer is required to file with the public authority of the country in which the insurer is constituted, incorporated or domiciled, or where such documents are not required to be filed, a certified statement showing the total assets and liabilities of the insurer at the close of the period covered by the said documents and his total income and expenditure during that period.

16. *Exemption from certain provisions of the Regulation.*—Where an insurer, being a company incorporated under the Companies Regulation in any year furnished his accounts and balance-sheet in accordance with the provisions of the foregoing section 15, he may at the same time send to the Registrar of the

Companies a certified copy of such accounts and balance-sheet ; and where such copy is so sent it shall not be necessary for the company to file a balance-sheet with the Registrar as required by sub-section (1) of section 134 of that Regulation and the copy of the accounts and balance-sheet so sent shall be dealt with in all respects as if they were filed in accordance with that section.

17. *Furnishing reports.*—Every insurer shall furnish to the Superintendent of Insurance a certified copy of every report on the affairs of the concern which is submitted to the members or policy-holders of the insurer immediately after its submission to the members or policy-holders, as the case may be.

18. *Abstract of proceedings of general meetings.*—Every insurer being a company or body incorporated under any law for the time being in force in the State shall furnish to the Superintendent of Insurance an abstract of the proceedings of every general meeting within thirty days from the holding of the meeting to which it relates.

19. *Custody and inspection of documents and supply of copies.*—(1) Every return furnished to the Superintendent of Insurance or a certified copy thereof shall be kept by the Superintendent and shall be open to inspection ; and any person may procure a copy of any such return, or of any part thereof on payment of a fee of six annas for every hundred words or fractional part thereof required to be copied, any five figures being deemed equivalent to one word.

(2) A printed or certified copy of the accounts, statements and abstract furnished in accordance with the provisions of section 15 shall, on the application of any share-holder or policy-holder made at any time within two years from the date on which the document was so furnished, be supplied to him by the insurer within fourteen days when the insurer is constituted, incorporated or domiciled in the State and in any other case within one month of such application.

(3) A copy of the memorandum and articles of association of the insurer if a company shall on the application of any policy-holder be supplied to him by the insurer on payment of one rupee.

20. *Powers of Superintendent of Insurance regarding returns.*—(1) If it appears to the Superintendent of Insurance that any return furnished to him under the provisions of this Regulation is inaccurate or defective in any respect, he may—

(a) require from the insurer such further information, certified if he so directs by an auditor or actuary, as he may consider necessary to correct or supplement such return ;

(b) call upon the insurer to submit for his examination at the principal place of business of the insurer in the State any book of account, register or other docu-

- ment or to supply any statement which he may specify in a notice served on the insurer for the purpose ;
- (c) examine any officer of the insurer on oath in relation to the return ;
- (d) decline to accept any such return unless the inaccuracy has been corrected or the deficiency has been supplied before the expiry of one month from the date on which the requisition asking for correction of the inaccuracy or supply of the deficiency was delivered to the insurer and if he declines to accept any such return, the insurer shall be deemed to have failed to comply with the provisions of section 15 relating to the furnishing of returns.

(2) The Court may on the application of an insurer and after hearing the Superintendent cancel any order made by the Superintendent under clause (a) (b) or (c) of sub-section (1) or may direct the acceptance of any return which the Superintendent has declined to accept, if the insurer satisfies the Court that the action of the Superintendent was in the circumstances unreasonable.

21. *Power of Superintendent of Insurance to order revaluation.*—If it appears to the Superintendent of Insurance that an investigation or valuation to which section 13 refers does not properly indicate the condition of the affairs of the insurer by reason of the faulty basis adopted in the valuation, he may, after giving notice to the insurer and giving him an opportunity to be heard, cause an investigation and valuation to be made at the expense of the insurer by an actuary appointed by the insurer for this purpose and approved by the Superintendent of Insurance.

22. *Evidence of documents.*—(1) Every return furnished to the Superintendent of Insurance, which has been certified by the Superintendent to be a return so furnished, shall be deemed to be a return so furnished.

(2) Every document, purporting to be certified by the Superintendent of Insurance to be a copy of a return so furnished, shall be deemed to be a copy of that return and shall be received in evidence as if it were the original return, unless some variation between it and the original return is proved.

23. *Summary of returns to be published.*—The Government shall every year cause to be published, in such manner as it may direct, a summary of the accounts, balance-sheets, statements, abstracts and other returns under this Regulation or purporting to be under this Regulation which have been furnished to the Superintendent of Insurance for the year preceding the year of publication and may append to such summary any note of the Government and any correspondence in relation thereto.

24. *Returns to be published in statutory forms.*—No insurer shall publish in the State any return in a form other than that in which it has been furnished to the Superintendent of Insurance :

Provided that nothing contained in this section shall prevent an insurer from publishing a true and accurate abstract from such returns for the purposes of publicity.

25. *Alterations in the particulars furnished with application for registration to be reported.*—Whenever any alteration occurs or is made which affect any of the matters which are required under the provisions of sub-section (2) of section 3 to accompany an application by an insurer for registration, the insurer shall forthwith furnish to the Superintendent of Insurance full particulars of such alteration.

26. (1) Every insurer registered, incorporated or domiciled in the State shall subject to the provisions of sub-section (2), at all times invest and hold invested assets equivalent to not less than 55 per cent. of the sum of the amount of his liabilities to holders of life insurance on account of matured claims and the amount required to meet the liability on policies of life insurance maturing for payment in the State, less the amount of any deposit made under section 7 by the insurer in respect of his life insurance business and less any amount due to the insurer for loans granted by him on policies of life insurance in approved securities ;

Provided that an insurer, not being an insurer defined in sub-clause (b) of clause (9) of section 2, shall invest 68 per cent. of the sum instead of 55 per cent. in approved securities.

(2) An insurer carrying on business at the commencement of this Regulation to whom sub-section (1) applies shall before the expiry of four years from the commencement of this Regulation invest the total amount required to be invested by that sub-section in the manner required thereby :

Provided that of such total amount the insurer shall have invested not less than one-fourth in securities of the nature specified in sub-section (1) before the expiry of one year; not less than one-half before the expiry of two years, and not less than three-fourths before the expiry of three years from the commencement of this Regulation.

(3) Every insurer, not being an insurer specified in sub-clause (b) of clause (9) of section 2, shall by a trust-deed appoint a trustee in the State for the sum to be invested under clauses (1) and (2). The said trustee shall be a subject of the State and such trust-deed shall be executed in favour of the Jammu and Kashmir Government and shall be registered in accordance with the provisions of the Registration Regulation, 1977. The trust-deed shall specify the manner in which sums may be invested.

27. *Statement of investments of assets.*—(1) Every insurer registered under this Regulation carrying on the business of life insurance, shall twice in every year, namely, within fourteen days of the 30th day of June and within fourteen days of the 31st day of December, submit to the Superintendent of Insurance a statement showing as at the said dates the assets held invested in the manner prescribed and such statement shall be certified by the principal officer of the insurer.

(2) The Superintendent of Insurance shall be entitled at any time to take such steps as he may consider necessary for the inspection or verification of the assets held invested and the insurer shall comply with all requisitions made by the Superintendent in that behalf.

28. *Prohibition of loans*—No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security or otherwise, except loans on life policies issued by him within their surrender value, to any director, manager, managing agent, actuary, auditor or officer of the insurer if a company, or where the insurer is a firm to any partner therein, or to any other company or firm in which any such director, manager, managing agent, actuary, officer or partner holds the position of a director, manager, managing agent, actuary, officer or partner :

Provided that nothing herein contained shall apply to loans made by an insurer to a banking company :

Provided further that every existing loan to any director, manager, managing agent, auditor, actuary, officer or partner, notwithstanding any contract to the contrary, shall be repaid within one year from the commencement of this Regulation, and in case of default, such defaulting director, manager, managing agent, auditor, actuary, officer or partner shall cease to hold office on the expiry of one year from the commencement of this Regulation :

Provided further that nothing in this section shall prohibit a company from granting such loans or advances to a subsidiary company or to any other company of which the company granting the loan or advance is a subsidiary company.

29. *Liability of directors etc., for loss due to contravention of section 27.*—If by reason of a contravention of any of the provisions of section 27, any loss is sustained by the insurer or by the policy-holders, every director, manager, managing agent, officer or partner who is knowingly a party to such contravention shall without prejudice to any other penalty to which he may be liable under this Regulation, be jointly and severally liable to make good the amount of such loss.

30. *Assets of insurer how to be kept.*—None of the assets in the State of any insurer shall, except in the case of deposits made with the Government under section 7 be kept otherwise than in the corporate name of the undertaking, if a company, or in the names of the partners, if a firm or in the name of the proprietor, if an individual.

31. *Limitation on employment of managing agents and on the remuneration payable to them.*—(1) No insurer shall after the commencement of this Regulation appoint a managing agent for the conduct of his business.

INSPECTION.

32. *Power of Superintendent of Insurance to order inspection.*—(1) If the Superintendent of Insurance has reason to believe that the interests of the policy-holders of an insurer are in danger or that an insurer is unable to meet his obligations or has made default in complying with any of the provisions of this Regulation or that an offence under this Regulation has been or is likely to be committed by an insurer or any officer of an insurer or if he receives a requisition in this behalf signed by shareholders of an insurer being a company less in number than one-tenth of the whole body of share-holders and holding not less than one-tenth of the whole share capital or if he receives a requisition in this behalf signed by not less than fifty policy-holders holding policies of life insurance that have been in force for not less than three years and are of the total value of not less than fifty thousand rupees and supported by an affidavit, he may, after giving notice to the insurer and giving him an opportunity to be heard, appoint, an auditor, or actuary or both, not being an auditor or actuary in the employ of the insurer, to investigate the affairs of the insurer or may himself make such investigation.

(2) The Court may, on the application of an insurer and after giving notice to and hearing the Superintendent of Insurance forbid such action by the Superintendent, if the insurer satisfies the Court that it is unnecessary in the circumstances.

(3) The results of any investigation made under this section shall be embodied in a report of which one copy shall be lodged with the Superintendent of Insurance and one copy shall be furnished to the insurer; and a copy of such report shall be furnished to the policy-holders who have sent a requisition for such an investigation.

(4) The Superintendent of Insurance may require the insurer to comply within a time to be specified by him (not being less than fifteen days from the receipt of the notice by the insurer)

with any directions he may issue to remedy defects disclosed by such inspection.

(5) If, as a result of any investigation made under this section, the Superintendent of Insurance is of opinion that it is necessary in the interests of the policy-holders that the business of the insurer should be wound up, or if the insurer fails to comply with any directions issued under sub-section (4), the Superintendent may, after giving notice to the insurer and giving him an opportunity to be heard apply to the Court to have the business of the insurer wound up.

33. *Powers of investigator.*—When any investigation is made in pursuance of section 32 the provisions of section 140 of the Companies Regulation shall apply for the purpose of such investigation as they apply to an investigation made in pursuance of section 138 of that Regulation and all expenses of and incidental to such investigation shall be defrayed for the insurer.

AMALGAMATION AND TRANSFER OF INSURANCE BUSINESS.

34. *Amalgamation and Transfer of Insurance Business.*—

(1) No life insurance business of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 shall be transferred to or amalgamated with the life insurance business of any other insurer except in accordance with a scheme prepared under this section and sanctioned by the Court having jurisdiction over one or other of the insurers concerned.

(2) Any scheme prepared under this section shall set out the agreement under which the transfer or amalgamation is proposed to be effected, and shall contain such further provisions as may be necessary for giving effect to the scheme.

(3) Before an application is made to the Court to sanction any such scheme notice of the intention to make the application together with a statement of the nature of the amalgamation or transfer, as the case may be, and of the reasons therefor shall at least two months before the application is made be sent to the Government, and certified copies of the following documents shall be furnished to the Government and shall during the two months aforesaid be kept open for the inspection of the members and policy-holders at the principal and branch offices and chief agencies of the insurers concerned, namely :—

(a) a draft of the agreement or deed under which it is proposed to effect the amalgamation or transfer ;

(b) statements of the assets and liabilities of the insurers concerned in such amalgamation or transfer ;
and

(c) the actuarial or other reports on which the scheme was

founded including a report by an independent actuary on the proposed amalgamation or transfer.

(4) Where an application under sub-section (3) is made to the Court within three months from the commencement of this Regulation, the Court may, on application, extend for the insurer whose business is to be transferred to or amalgamated with the business of another insurer, the time allowed for registration and for the payment of the first instalment of the deposit under sections 3 and 7 for such period not exceeding nine months as the Court may think fit.

35. *Sanction of amalgamation and transfer by Court.*—When any application such as is referred to in sub-section (3) of section 34 is made to the Court, the Court shall cause if for special reasons it so directs, notice of the application to be sent to every person resident in the State who is the holder of a life policy of any insurer concerned and shall cause a statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such period as it may direct, and after hearing the directors and such policy-holders as apply to be heard and any other persons whom it considers entitled to be heard, may sanction the arrangement, if it is satisfied that no sufficient objection to the arrangement has been established.

36. *Statements required after amalgamation and transfer.*—Where an amalgamation takes place between any two or more insurers, or where any business of one insurer is transferred to another, whether in accordance with a scheme confirmed by the Court or otherwise, the insurer carrying on the amalgamated business or the insurer to whom the business is transferred, as the case may be, shall, within three months from the date of the completion of the amalgamation or transfer, furnish to the Government—

(a) a certified copy of the scheme, agreement or deed under which the amalgamation or transfer has been effected, and

(b) a declaration signed by every insurer concerned or in the case of a company by the chairman and the principal officer that to the best of their belief every payment made or to be made to any person whatsoever on account of the amalgamation or transfer is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any parties to the amalgamation or transfer, and

(c) where the amalgamation or transfer has not been made in accordance with a scheme confirmed by the Court—

- (i) certified copies of statements of the assets and liabilities of the insurers concerned, and
- (ii) certified copies of the actuarial or other reports upon which the agreement or deed was founded.

ASSIGNMENT OR TRANSFER OF POLICIES AND NOMINATIONS.

37. *Assignment and transfer of life insurance policies.*—(1) A transfer or assignment of a policy of life insurance, whether with or without consideration, may be made only by an endorsement upon the policy itself or by a separate instrument, signed in either case by the transferor or by the assignor or his duly authorised agent and attested by at least one witness, specifically setting forth the fact of transfer or assignment.

(2) The transfer or assignment shall be complete and effectual upon the execution of such endorsement or instrument duly attested but shall not be operative as against an insurer and shall not confer upon the transferee or assignee, or his legal representative any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment has been delivered to the insurer at his principal place of business in the State by or on behalf of the transferor or transferee.

(3) The date on which the notice referred to in sub-section (2) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment as between persons interested in the policy; and where there is more than one instruments of transfer or assignment the priority of the claims under such instruments shall be governed by the order in which the notices referred to in sub-section (2) are delivered.

(4) Upon the receipt of the notice referred to in sub-section (2), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given, or of the transferee or assignee, on payment of a fee not exceeding one rupee, grant a written acknowledgement of the receipt of such notice and any such acknowledgement shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgement related.

(5) From the date of the receipt of the notice referred to in sub-section (2) the insurer shall recognise the transferee or assignee named in the notice as the only person entitled to benefit

under the policy, and such person shall be subject to all liabilities and equities to which the transferor or assignor was subject at the date of the transfer or assignment and may institute any proceedings in relation to the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

(6) The rights and remedies of the assignee or transferee of a policy of life insurance existing prior to the commencement of this Regulation shall not be affected by the provisions of this section.

(7) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made with the condition that it shall be inoperative or that the interest shall pass to some other person on the happening of a specified event during the life of the policy-holder, and an assignment in favour of the survivor or survivors of a number of persons, shall be valid.

38. *Nomination by policy-holder.*—(1) The holder of a policy of life insurance may when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death.

(2) Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement or a will, as the case may be.

(3) The insurer may charge a fee not exceeding one rupee for registering any such endorsement and shall furnish to the policy-holder a written acknowledgement of having done so.

(4) A transfer or assignment of a policy made in accordance with section 37 shall automatically cancel a nomination.

(5) Where the policy matures for payment during the life-time of the policy-holder or where the nominee or, if there are more nominees than one all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policy-holder or his heirs or legal heirs or legal representatives or the holders of a succession certificate, as the case may be.

(6) Where the nominee or, if there are more nominees than one, a nominee or nominees survive the policy-holder, the amount secured by the policy survivor shall be payable to such survivor or survivors.

COMMISSION AND REBATES AND LICENSING OF AGENTS.

39. *Prohibition of payment by way of commission or otherwise for procuring business.*—(1) No person shall, after the expiry of six months from the commencement of this Regulation, pay or contract to pay any remuneration or reward whether by way of commission or otherwise for soliciting or procuring insurance business in the State to any person except an insurance agent licensed under section 40 or a person acting on behalf of an insurer who for the purposes of insurance business employs licensed insurance agents.

(2) No insurance agent licensed under section 41 shall be paid or contract to be paid by way of commission or as remuneration in any form an amount exceeding, in the case of life insurance business, forty per cent. of the first year's premium payable on any policy or policies effected through him and five per cent. of a renewal premium, or, in the case of business of any other class, fifteen per cent., of the premium:

Provided that insurers, in respect of life insurance business only, may pay, during the first ten years of their business, to their insurance agents fifty-five per cent. of the first year's premium payable on any policy or policies effected through them and six per cent. of the renewal premiums.

(3) Nothing in this section shall prevent the payment under any contract existing prior to the operation of this Regulation, of gratuities or renewal commission to an insurance agent or to his representatives after his decease in respect of insurance business effected through him before the said date.

40. *Prohibition of rebates.*—(1) No person shall allow or offer to allow either directly or indirectly, as an inducement to any person to effect or renew an insurance in respect of any kind of risk relating to lives or property in the State any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy, nor shall any person taking out or renewing a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer.

(2) Any persons making default in complying with the provisions of this section shall be punishable with fine which may extend to one hundred rupees unless the default is made by a person effecting or renewing a policy, in which case he shall be punishable with fine which may extend to fifty rupees only.

41. *Licensing of insurance agents.*—(1) The Superintendent of Insurance or an officer authorised by him in this behalf shall in the prescribed manner and on payment of the prescribed fee which shall not be more than one rupee, issue to any individual making

an application under this section and not suffering from any of the disqualifications hereinafter mentioned a licence to act as an insurance agent for the purpose of soliciting or procuring insurance business.

(2) A licence issued under this section shall entitle the holder to act as an insurance agent for any registered insurer.

(3) A licence issued under this section shall expire on the first day of Baisakh in each year, but shall, if the applicant does not suffer from any of the disqualifications hereinafter mentioned, be renewed from year to year on payment of a fee of one rupee.

(4) The disqualifications above referred to shall be the following:—

(a) that the person is a minor ;

(b) that he is found to be of unsound mind by a Court of competent jurisdiction ;

(c) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating by a Court of competent jurisdiction ;

(d) that in the course of any judicial proceeding relating to any policy of insurance or the winding up of an insurance company or in the course of an investigation of the affairs of an insurer it has been found that he has been guilty of or has knowingly participated in or connived at any fraud, dishonesty or misrepresentation against an insurer or an assured.

(5) If it be found that an insurance agent suffers from any of the foregoing disqualifications, without prejudice to any other penalty to which he may be liable, the Superintendent of Insurance shall, and if the agent has knowingly contravened any provision of this Regulation may, cancel the licence issued to the agent under this section.

42. *Register of insurance agents.*—(1) Every insurer and every person who acting on behalf of an insurer employs licensed insurance agents shall maintain a register showing the name and address of every licensed insurance agent appointed by him and the date, if any, on which his appointment ceased

(2) Any individual not holding a licence issued under section 41 who acts as an insurance agent shall be punishable with fine which may extend to fifty rupees, and any insurer who, or any person acting on behalf of an insurer who, appoints as an insurance agent any individual not so licensed, or transacts any insurance business in the State through any such individual, shall be punishable with fine which may extend to one hundred rupees.

(3) The provisions of sub-section (2) shall not take effect until the expiry of six months from the commencement of this Regulation.

43. *Prohibition of cessation of payments of commission.*—Notwithstanding anything to the contrary in a contract between any person and an insurance agent licensed under section 41 forfeiting or stopping payment of renewal commission to such insurance agent, no such person shall in respect of life insurance business done in the State refuse payment to an insurance agent of commission on renewal premiums due to him under the agreement by reason only of the termination of his agreement except for fraud:

Provided that such agent has served such person continually and exclusively for at least ten years, and provided further that, after his ceasing to act as agent, he does not directly or indirectly solicit or procure insurance business for any other person.

SPECIAL PROVISIONS OF LAW.

44. *Policy not to be called in question on ground of misstatement after two years.*—No policy of life insurance effected before the commencement of this Regulation shall after the expiry of two years from the date of commencement of this Regulation and no policy of life insurance effected after the coming into force of this Regulation, shall after the expiry of two years from the date on which it was effected, be called in question by an insurer on the ground that a statement made in the proposal for insurance or in any report of a medical officer, or referee, or friend of the insured, or in any other document leading to the issue of the policy, was inaccurate or false, unless the insurer shows that such statement was on a material matter and fraudulently made by the policy-holder and that the policy-holder knew at the time of making it that the statement was false

45. *Application of State Law to policies issued in the State.*—The holder of a policy of insurance issued by an insurer in respect of insurance business transacted in the State after the commencement of this Regulation shall have the right, notwithstanding anything to the contrary contained in the policy or in any agreement relating thereto to receive payment in the State of any sum secured thereby and to sue for any relief in respect of the policy in any Court of competent jurisdiction in the State ; and if the suit is brought in the State any question of law arising in connection with any such policy shall be determined according to the law in force in the State.

46. *Payment of money into Court.*—(1) Where in respect of any policy of life insurance maturing for payment an insurer is of opinion that by reason of conflicting claims to or insufficiency of proof of title to the amount secured thereby or for any other adequate reason it is impossible otherwise for the insurer to obtain

a satisfactory discharge for the payment of such amount, the insurer shall before the expiry of nine months from the date of the maturing of the policy apply to pay the amount into the Court within the jurisdiction of which is situated the place at which such amount is payable under the terms of the policy or otherwise.

(2) A receipt granted by the Court for any such payment shall be a satisfactory discharge to the insurer for the payment of such amount.

(3) An application for permission to make a payment into Court under this section shall be made by a petition verified by an affidavit signed by a principal officer of the insurer setting forth the following particulars, namely:—

- (a) the name of the insured person and his address;
- (b) if the insured person is deceased, the date and place of his death;
- (c) the nature of the policy and the amount secured by it;
- (d) the name and address of each claimant so far as is known to the insurer with details of every notice of claim received;
- (e) the reasons why in the opinion of the insurer a satisfactory discharge cannot be obtained for the payment of the amount; and
- (f) the address at which the insurer may be served with notice of any proceeding relating to disposal of the amount paid into Court.

(4) An application under this section shall not be entertained by the Court if the application is made before the expiry of six months from the death of the insured, or the maturing of the policy by survival.

(5) If it appears to the Court that a satisfactory discharge for the payment of the amount cannot otherwise be obtained by the insurer it shall allow the amount to be paid into Court and shall invest the amount in approved securities pending its disposal.

(6) The insurer shall transmit to the Court every notice of claim received after the making of the application under sub-section (3), and any payment required by the Court as costs of the proceedings or otherwise in connection with the disposal of the amount paid into Court shall as to the costs of the application under sub-section (3) be borne by the insurer and as to any other costs be in the discretion of the Court.

(7) The Court shall cause notice to be given to every ascertained claimant of the fact that the amount has been paid into Court and shall cause notice at the cost of any claimant applying to withdraw the amount to be given to every other ascertained claimant.

(8) The Court shall decide all questions relating to the disposal of claims to the amount paid into Court.

47. *Directors of insurers being companies.*—(1) Where the insurer is a company incorporated under the Companies Regulation and carries on the business of life insurance, not less than one-fourth of the whole number of the directors of the company shall be persons having the prescribed qualifications and holding policies of life insurance issued by the company, and shall be elected to the Board of Directors of the company in the prescribed manner by the holders of policies of life insurance issued by the company.

(2) This section shall not take effect until the expiry of one year from the commencement of this Regulation.

48. *Restriction on dividends and bonuses.*—No insurer, being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, who carries on the business of life insurance shall in respect of such life insurance business declare or pay any dividend to shareholders or any bonus to policy-holders except out of a surplus ascertained as the result of an actuarial valuation of the assets and liabilities of the insurer.

49. *Notice of options available to the assured on the lapsing of a policy.*—An insurer shall, within three months of the lapsing of a policy of life insurance, give notice to the policy-holder informing him of the options available to him.

50. *Supply of copies of proposals and medical reports.*—Every insurer shall on application by a policy-holder and on payment of a fee not exceeding one rupee, supply to the policy-holder certified copies of the questions put to him and his answers thereto contained in his proposal for insurance and in the medical report supplied in connection therewith.

51. *Prohibition of business on dividing principle.*—No insurer shall after the commencement of this Regulation begin or after three years from that date continue to carry on any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the results of a distribution of certain sums amongst policies becoming claims within certain time-limits or on the principle that the premiums payable by a policy-holder depend wholly or partly on the number of policies becoming claims within certain time-limits :

Provided that nothing in this section shall be deemed to prevent an insurer from allocating bonuses to holder of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to the sums insured or as immediate cash bonuses or otherwise :

Provided further that an insurer who continues to carry on

insurance business on the dividing principle after the commencement of this Regulation shall withhold from distribution a sum of not less than forty per cent. of the premiums received during each year after the commencement of this Regulation in which such business is continued so as to make up the amount required for investment under section 26.

WINDING UP.

52. *Winding up by the Court.*—(1) The Court may order the winding up in accordance with the Companies Regulation of any insurance company and the provisions of that Regulation shall subject to the provisions of this Chapter, apply accordingly.

2. In addition to the grounds on which such an order may be based, the Court may order the winding up of an insurance company—

(a) if with the sanction of the Court previously obtained a petition in this behalf is presented by shareholders not less in number than one-tenth of the whole body of shareholders and holding not less than one-tenth of the whole share capital or by not less than fifty policy-holders holding policies of life insurance that have been in force for not less than three years and are of the total value of not less than fifty thousand rupees ; or

(b) if the Superintendent of Insurance, who is hereby authorised to do so, applied in this behalf to the Court on any of the following grounds, namely:—

(i) that the company has failed to deposit or to keep deposited with the Government the amounts required by section 7 ;

(ii) that the company having failed to comply with any requirement of this Regulation has continued such failure for a period of three months after notice of such failure has been conveyed to the company by the Superintendent of Insurance ;

(iii) that it appears from the returns furnished under the provisions of this Regulation or from the results of any investigation made thereunder that the company is insolvent, or

(iv) that the continuance of the company is prejudicial to the interests of the policy-holders.

53. *Voluntary winding up.*—Notwithstanding anything contained in the Companies Regulation, an insurance company shall not be wound up voluntarily except for the purpose of effecting an amalgamation or a re-construction of the company, or on the

ground that by reason of its liabilities it cannot continue its business.

54. *Valuation of Liabilities.*—(i) In the winding up of an insurance company or in the insolvency of any other insurer the value of the assets and the liabilities of the insurer shall be ascertained in such manner and upon such basis as the liquidator or receiver in insolvency thinks fit, subject, so far as applicable, to the rule contained in the sixth Schedule and to any directions which may be given by the Court.

(2) For the purposes of any reduction by the Court of the amount of the contracts of any insurance company the value of the assets and liabilities of the company and all claims in respect of policies issued by it shall be ascertained in such manner and upon such basis as the Court thinks proper having regard to the rule aforesaid.

(3) The rule in the sixth Schedule shall be of same force and may be repealed, altered or amended as if it were a rule made in pursuance of section 246 of the Companies Regulation and rules may be made under that section for the purpose of carrying into effect the provisions of this Regulation with respect to the winding up of insurance companies.

55. *Application of surplus assets of life insurance found in liquidation or insolvency.*—(1) In the winding up of an insurance company and in the insolvency of any other insurer the value of the assets and the liabilities of the insurer in respect of life insurance business shall be ascertained separately from the value of any other assets or any other liabilities of the insurer and no such assets shall be applied to the discharge of any liabilities other than those in respect of life insurance business except in so far as those assets exceed the liabilities in respect of life insurance business.

(2) In the winding up of an insurance company carrying on the business of life insurance or in the insolvency of any other insurer carrying on such business where any proportion of the profits of the insurer was before the commencement of the winding up or insolvency allocated to policy-holders, if when the assets and liabilities of the insurer have been ascertained, there is found to be a surplus of assets over liabilities (hereinafter referred to as a *prima facie* surplus) there shall be added to the liabilities of the insurer in respect of the life insurance business an amount equal to such proportion of the *prima facie* surplus as is equivalent to such proportion of the profits allocated to share-holders and policy-holders as was allocated to policy-holders during the ten years immediately preceding the commencement of the winding up and the assets of

the insurer shall be deemed to exceed his liabilities only in so far as those assets exceed those liabilities after such addition.

Provided that—

(a) if in any case there has been no such allocation or if it appears to the Court that by reason of special circumstances it would be inequitable that the amount to be added to the liabilities of the insurer in respect of the life insurance business should be an amount equal to such proportion as aforesaid, the amount to be so added shall be such amount as the Court may direct, and

(b) for the purpose of the application of this sub-section to any case where before the commencement of the winding up or insolvency a proportion of such profits as aforesaid of a branch only of the life insurance business in question has been allocated to policyholders, the value of the assets and liabilities of the insurer in respect of that branch shall be separately ascertained in like manner as the value of his assets and liabilities in respect of the life insurance business was ascertained, and the surplus so found, if any, of assets over liabilities shall, for the purpose of determining the amount to be added to the liabilities of the insurer in respect of the life insurance business be deemed to be the *prima facie* surplus.

56. *Winding up of secondary companies.*—(1) Where the insurance business or any part of the insurance business of an insurance company has been transferred to another insurance company under an arrangement in pursuance of which the first mentioned company (in this section referred to as the secondary company) or the creditors thereof has or have claims against the company to which such transfer was made (in this section referred to as the principal company) then, if the principal company is being wound up by or under the supervision of the Court, the Court shall (subject as hereinafter mentioned) order the secondary company to be wound up in conjunction with the principal company and may by the same or any subsequent order appoint the same person to be liquidator for the two companies and make provision for such other matters as may seem to the Court necessary with a view to the companies being wound up as if they were one company.

(2) The commencement of the winding up of the principal company shall, save as otherwise ordered by the Court, be the commencement of the winding up of the secondary company.

(3) In adjusting the rights and liabilities of the members of the several companies among themselves the Court shall have regard to the constitution of the companies and to the arrangements entered into between the companies in the same manner as the Court has regard to the rights and liabilities of different classes of contributories in the case of the winding up of a single company or as near thereto as circumstances admit.

(4) Where any company alleged to be secondary is not in process of being wound up at the same time as the principal company to which it is alleged to be secondary, the Court shall not direct the secondary company to be wound up, unless, after hearing all objections (if any) that may be urged by or on behalf of the company against its being wound up, the Court is of opinion that the company is secondary to the principal company and that the winding up of the company in conjunction with the principal company is just and equitable.

(5) An application may be made in relation to the winding up of any secondary company in conjunction with the principal company by any creditor of, or person interested in, the principal or secondary company.

(6) Where a company stands in the relation of a principal company to one insurance company and in the relation of a secondary company to some other insurance company or where there are several insurance companies standing in the relation of secondary companies to one principal company, the Court may deal with any number of such companies together or in separate groups as it thinks most expedient upon the principles laid down in this section.

57. *Schemes for partial winding up of insurance companies.*—(1) If at any time it appears expedient that the affairs of an insurance company in respect of any class of business comprised in the undertaking of the company should be wound up but that any other class of business comprised in the undertaking should continue to be carried on by the company or be transferred to another insurer, a scheme for such purposes may be prepared and submitted for confirmation of the Court in accordance with the provisions of this Regulation.

(2) Any scheme prepared under this section shall provide for the allocation and distribution of the assets and liabilities of the company between any classes of business affected (including the allocation of any surplus assets which may arise on the proposed winding up), for any future rights of every class of policy-holders in respect of their policies and for the manner of winding up any of the affairs of the company which are proposed to be wound up and may contain provisions for

altering the memorandum of the company with respect to its objects and such further provisions as may be expedient for giving effect to the scheme.

(3) The provisions of this Regulation relating to the valuation of liabilities of insurers in liquidation and insolvency and to the application of surplus assets of the life insurance fund in liquidation or insolvency shall apply to the winding up of any part of the affairs of a company in accordance with the scheme under this section in like manner as they apply in the winding up of an insurance company, and any scheme under this section may apply with the necessary modifications any of the provisions of the Companies Regulation relating to the winding up of companies.

(4) An order of the Court confirming a scheme under this section whereby the memorandum of a company is altered with respect to its object shall as respects the alteration have effect as if it were an order confirmed under section 12 of the Companies Regulation and the provisions of sections 15 and 16 of that Regulation shall apply accordingly.

58. *Return of Deposit*—In the winding up of an insurance company and in the insolvency of any other insurer the liquidator or assignee, as the case may be shall apply to the Court for an order for the return of the Deposit made by the company under section 7 and the Court shall, on such application order a return of the Deposit subject to such terms and conditions as it shall direct.

59. *Notice of Policy Value*.—In the winding up of an insurance company for the purposes of a cash distribution of the assets and in the insolvency of any other insurer the liquidator or assignee as the case may be in the case of all persons appearing by the books of the company or other insurer to be entitled to or interested in the policies granted by the company or other insurer shall ascertain the value of the liability of the company or other insurer to each such person and shall give notice of such value to those persons in such manner as the Court may direct and any person to whom notice is so given shall be bound by the value so ascertained unless he gives notice of his intention to dispute such value in such manner and within such time as may be specified by a rule or order of the Court.

60. *Power of Court to reduce contracts of insurance*.—(1) Where an insurance company is in liquidation or any other insurer is insolvent the Court may make an order reducing the amount of the insurance contracts of the company or other

insurer upon such terms and subject to such conditions as the Court thinks just

(2) Where a company carrying on the business of life insurance has been proved to be insolvent, the Court may if it thinks fit in place of making a winding order reduce the amount of the insurance contracts of the company upon such terms and subject to such conditions as the Court thinks fit.

(3) Application for an order under this section may be made either by the liquidator or by or on behalf of the company or by a policy-holder, or by the Superintendent of Insurance and the Superintendent of Insurance and any person whom the Court thinks likely to be affected shall be entitled to be heard on any such application.

61. *Particulars to be filed by insurers established outside the State*—Every insurer, having his principal place of business or domicile outside the State, who establishes a place of business within the State or appoints a representative in the State with the object of obtaining insurance business, shall within three months from the establishment of such place of business or the appointment of such agent, file with the Superintendent of Insurance—

- (a) a certified copy of the charter, statutes, deed or settlement or memorandum and articles or other instrument constituting or defining the constitution of the insurer, and if the instrument is not written in the English language, a certified translation thereof;
- (b) a list of the directors, if the insurer is a company;
- (c) the name and address of some one or more persons resident in the State authorised to accept on behalf of the insurer service of process and any notice required to be served on the insurer, together with a copy of the power of attorney granted to him;
- (d) the full address of the principal office of the insurer in the State.

62. *Books to be kept by insurers established outside the State.*—Every insurer having his principal place of business or domicile outside the State shall keep at his principal office in the State such books of account, registers and documents as will enable the accounts, statements and abstracts which he is required under this Regulation to furnish to the Superintendent of Insurance in respect of the insurance business transacted by him in the State to be compiled and, if necessary, checked by the Superintendent of Insurance.

PART III.

MISCELLANEOUS.

63. *Penalty for default in complying with or act in contravention of this Regulation.*—Except as otherwise provided in this Regulation, any insurer who makes default in complying with or acts in contravention of any requirement of this Regulation, and where the insurer is a company, any director, managing agent, manager or other officer of the company or where the insurer is a firm, any partner of the firm who is knowingly a party to the default, shall be punishable with fine which may extend to one thousand rupees and in the case of a continuing default, with an additional fine which may extend to five hundred rupees for every day during which the default continues.

64. *Penalty for transacting insurance business in contravention of section 3, 6 and 7.*—(1) Any insurer or any person acting on behalf of an insurer, who transacts any class of insurance business in contravention of any of the provisions of section 3, section 6, section 7, or does any one or more of the acts constituting the business of insurance in relation to any such class of insurance business shall be punishable with fine which may extend to two thousand rupees.

(2) Any person knowingly taking out a policy of insurance with any insurer or person guilty of an offence under sub-section (1) shall be punishable with fine which may extend to five hundred rupees.

66. *Penalty for false statement of document.*—Whoever, in any return, report, certificate, balance-sheet or other document, required by or for the purposes of any of the provisions of this Regulation, wilfully makes a statement false in any material particular, knowing it to be false shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

66. *Wrongfully obtaining or withholding property.*—Any director, managing agent, manager or other officer or employee of an insurer who wrongfully obtains possession of any property of the insurer or having any such property in his possession wrongfully withholds it or wilfully applies it to purposes other than those expressed or authorised by this Regulation shall, on the complaint of the insurer or any member or any policy-holder thereof be punishable with fine which may extend to one thousand rupees and may be ordered by the Court trying the offence to deliver up or refund within a time to be fixed by the Court any such property improperly obtained or wrongfully with-

held or wilfully misapplied and in default to suffer imprisonment for a period not exceeding two years.

67. *Wrongfully diminishing life insurance fund.*—If on the application of an insurer or any member of an insurance company or any policy-holder or the liquidator of an insurance company (in the event of the insurer being in liquidation) the Court is satisfied that by reason of any contravention of the provisions of this Regulation the amount of the life insurance fund has been diminished, every person who was at the time of the contravention a director, manager, liquidator or an officer of the insurer shall be deemed in respect of the contravention to have been guilty of misfeasance in relation to the insurer unless he proved that the contravention occurred without his consent or connivance and was not facilitated by any neglect or omission on his part; and the Court shall have all the powers which a Court has under sections 235 and 237 of the Companies Regulation and shall also have the power to assess the sum by which the amount of the life insurance fund has been diminished by reasons of the misfeasance and to order any person guilty thereof to contribute to that fund the whole or any part of that sum by way of compensation.

68. *Previous sanction of Government for institution of proceedings.*—Except where proceedings are instituted by the Superintendent of Insurance, no proceedings under this Regulation against an insurer or any director, manager or other officer of an insurer or any person who is liable under sub-section (2) of section 40 shall be instituted by any person unless he has previous thereto obtained the sanction of the Government in this behalf.

69. *Power of Court to grant relief.*—If in any proceedings, civil or criminal it appears to the Court hearing the case that a person is or may be liable in respect of negligence, default, breach of duty or breach of trust but that he has acted honestly and reasonably and that having regard to all the circumstances of the case he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, the Court may relieve him either wholly or partly from his liability on such terms as it may think fit.

70. *Cognizance of offence.*—No Court inferior to that of a magistrate of the first class shall try any offence under this Regulation.

71. *Appeals.*—(1) An appeal shall lie to the Court having jurisdiction from any of the following orders, namely:—

- (a) an order under section 3 refusing to register, or cancelling the registration of, an insurer;
- (b) an order under section 5 directing the insurer to change his name;

(c) an order under section 41 cancelling the licence issued to an agent;

(d) an order made in the course of the winding up or insolvency of an insurer.

(2) The Court having jurisdiction for the purpose of sub-section (1) shall be the principal Court of civil jurisdiction within whose local limit the principal place of business of the insurer concerned is situate.

(3) An appeal shall lie from any order made under sub-section (1) to the authority authorised to hear appeals from the decisions of the Court making the same and the decision on such appeal shall be final.

72. *Service of notice.*—(1) Any process or notice required to be served on an insurer shall be sufficiently served if addressed to any person registered with the Superintendent of Insurance as a person authorised to accept notices on behalf of the insurer and left at or sent by registered post to, the address of such person as registered with the Superintendent of Insurance.

(2) Any notice or other document which is by this Regulation required to be sent to any policy-holder may be addressed and sent to the person to whom notices respecting such policy are usually sent and any notice so addressed and sent shall be deemed to be notice to the holder of such policy:

Provided that, where any person claiming to be interested in a policy as transferee, assignee or nominee has given to an insurer notice in writing of his interest, any notice which is by this Regulation required to be sent to policy-holders shall also be sent to such person at the address specified by him in his notice.

73. *Declaration of interim bonuses.*—Notwithstanding anything to the contrary contained in this Regulation an insurer carrying on the business of life insurance shall be at liberty to declare an interim bonus or bonuses to policy-holders whose policies mature for payment by reason of death or otherwise during the inter-valuation period on the recommendation of the investigating actuary made at the last proceeding valuation.

74. *Acquisition of surrender values by policy.*—(1) Where a definite number of premiums is payable a policy of life insurance on which all premiums have been paid for three consecutive years shall acquire a guaranteed surrender value and notwithstanding any contract to the contrary shall not lapse by reason of non-payment of further premium but shall notwithstanding such non-payment be kept alive to the extent of its paid up value.

Explanation.—For the purposes of this sub-section the paid up value of a policy shall be an amount bearing to the total sum assured by the policy the same proportion as the total of the

premiums already paid on the policy bears to the total of the premiums payable under the policy.

(2) A policy kept alive to the extent of its paid up value under sub-section (1) shall not participate in any profits of the insurer earned after the conversion of the policy into a paid up policy.

(3) This section shall not apply to:—

- (a) policies in respect of which the sum assured is payable only on the happening of a contingency which may not arise, or
- (b) where the paid up value will be less than one hundred rupees, or
- (c) where the parties after the default has occurred in the payment of the premium agree in writing to some other arrangement, or
- (d) to policies in which the surrender value is automatically applied under the terms of the contract to maintaining the policy in force after its lapse through non-payment of premium.

75. *Power of Government to make rules.*—(1) The Government may, subject to the condition of previous publication by notification in the Government Gazette, make rules to carry out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the qualifications to be possessed by actuaries;
- (b) the manner in which it shall be determined for the purposes of this Regulation what is insurance business transacted in the State;
- (c) the procedure to be followed in dealing with deposits made in pursuance of this Regulation including the receipt or, custody of, withdrawal of, and payment of interest on such deposits, and their inspection and verification by the Superintendent of Insurance;
- (d) the manner in which the prospectuses and tables referred to in sub-section (1) of section 40 shall be published and the form in which they shall be drawn up;
- (e) the matters to be prescribed for the purposes of section 47;
- (f) the manner in which the investment of assets of an insurer shall take place;
- (g) restrictions on loans;
- (h) the manner in which statements of assets shall be furnished.

76. *Alteration of forms.*—The Government may, on the application or with the consent of an insurer, not being a company,

alter the forms contained in the Schedule as respects that insurer, for the purpose of adapting them to the circumstances of that insurer :

Provided that nothing done under this section shall exempt the insurer from supplying all information required under this Regulation so far as it is possible for the insurer to do so.

77. *Power to exempt from certain requirements*:—The Government may, by notification in the Government Gazette, exempt any insurer constituted, incorporated or domiciled in India from the provisions of section 6 relating to deposits or from furnishing statements and documents prescribed by any section or from the provisions of any other section relating to the keeping of assets in the State under section 26 either absolutely or subject to such conditions or modifications as may be specified in the notification.

78. *Saving of provisions of Companies Regulation*—Nothing in the Regulation shall affect the liability of an insurer being a company to comply with the provisions of the Companies Regulation, in matters otherwise specifically provided for by this Regulation.

79. *Exemption*.—Nothing in this Regulation shall apply to:—

(a) any recognised fund in existence maintained by or on behalf of Government servants or Government pensioners for the mutual benefit of contributors to the fund and of their dependents or

(b) any society registered under the Jammu and Kashmir Co-operative Societies Regulation No. 6 of 1993.

80. *Policy forms to be deposited with the Superintendent of Insurance*.—Every insurer registered under this Regulation shall deposit and keep deposited with the Superintendent of Insurance copies of all standard forms of policy contracts issued by him in the State.

81. *Amendment of section 130, Transfer of Property Regulation*.—To the Exception to section 130 of the Transfer of Property Regulation, the following words and figures shall be added, namely:—

“or affects, the provisions of section 37 of the Insurance Regulation”.

THE FIRST SCHEDULE.

(See section 11.)

Instructions and Forms for the preparation of Balance-Sheet.

PART I.

INSTRUCTIONS.

1. The balance-sheet required to be prepared in respect of every class of business carried on by an insurer is, in the form in which it is set out in Part II of this Schedule (Form A), appropriate to a case where the insurer maintains a separate fund in respect of life insurance business.

2. The balance-sheet of life insurance business shall be prepared as a separate document. The balance-sheet of any class of business may be prepared as a separate document instead of being incorporated by the addition of columns and headings in the general balance-sheet, but the totals of each such separate balance-sheet (showing the total assets of the class of business the balance at the credit of the life insurance fund or other separate fund or account, the amount of share-holders' undivided profits, and outstanding liabilities) must in any case be incorporated in the general balance-sheet.

3. If any combined balance-sheet is for any purpose issued by an insurer, it shall be in accordance with the Form set out in this Schedule, and there shall not be included among the assets shown in any such combined balance-sheet any amount in respect of any holding in or advance to any insurer whose assets and liabilities have been incorporated therein. Every combined balance-sheet must show clearly on the face thereof that it is a combined balance-sheet and must set out fully the name of every insurer whose assets and liabilities have been incorporated therein; if the assets and liabilities of any person not being an insurer are included in a combined balance-sheet the fact must be stated thereon.

4. Where any guarantee has been given by an insurer (otherwise than in the ordinary course of re-insurance business) in respect of the policies of any other insurer, the balance-sheet of the insurer by whom the guarantee was given must show clearly the name of every insurer whose policies have been so guaranteed and the extent of the guarantee:

Provided that this Regulation shall not apply where a combined balance-sheet is issued incorporating the assets and liabilities of the insurer whose policies are guaranteed.

5. Where any part of the assets of an insurer is deposited in any place outside the State as security for the owners of policies issued in that place, the balance-sheet shall state that part of the assets has been so deposited, and, in any such part forms part of the life insurance fund, shall show the amount thereof and the place where it is deposited. Where any combined balance-sheet is issued by an insurer for any purpose, the information required by this Regulation shall be shown in the aggregate in respect of all the insurers whose assets and liabilities have been incorporated in the balance-sheet.

6. There shall be appended to the balance-sheet a statement in Form AA as set out in Part II of this Schedule showing the market value and the book value of the assets in the State.

7. Every balance-sheet shall contain the following certificates, namely :—

(a) a certificate signed by the same persons as are required by this Insurance Regulation to sign the balance-sheet explaining how the values as shown in the balance-sheet of the Investments in Stocks and Shares have been arrived at, and how the market value thereof has been ascertained for the purpose of comparison with the values so shown ;

(b) a certificate signed by the same persons as are required by this Insurance Regulation to sign the balance-sheet and signed also, so far as respects the value of any items shown in the balance-sheet under the heading of "Reservations and Life Interests" by an actuary, certifying that the values of all the assets have been reviewed as at the date of the balance-sheet, and that in their belief the assets set fourth in the balance-sheet are shown in the aggregate at amounts not exceeding their realisable or market value under the several headings "Loans", "Reservations and Life Interests", "Investments", "Agents Balances", "Outstanding Premiums", "Interest, Dividends and Rents outstanding", "Interest, Dividends and Rents accruing but not due", "Amounts due from other Persons or Bodies carrying on Insurance Business", "Sundry Debtors", "Bills Receivable", "Cash" and the several items specified under "Other Accounts".

Provided that if the persons signing the certificate are unable to certify that the assets set fourth in the balance-sheet are so shown as aforesaid, a full explanation of the basis upon which the values

shown in the balance-sheet have been assessed shall be given in the certificate;

(c) a certificate signed by the same persons as are required by this Insurance Regulation to sign the balance-sheet and by the auditor certifying that no parts of the assets of the life insurance fund has been directly or indirectly applied in contravention of the provisions of this Insurance Regulation relating to the application and investment of life insurance funds; and

(d) certificates signed by the auditor (which shall be in addition to any other certificate or report which he is required by law to give with respect to the balance-sheet) certifying—

(i) that he has verified the cash balances and the securities relating to the insurer's loan, reversions and life interests, and investments;

(ii) to what extent, if any, he has verified the investments and transactions relating to trusts undertaken by the insurer as trustee; and

(iii) in the case of a combined balance-sheet, that he has audited the balance-sheet and accounts of every insurer whose assets and liabilities are incorporated therein, or that any such balance-sheet and accounts which have not been audited by him have been certified by independent auditors. The said certificate shall contain a reference to such reservations, if any, as may have been made by any auditor upon any report or certificate given by him with respect to the balance-sheet and accounts of any insurer whose assets and liabilities are incorporated in the combined balance-sheet.

8. If the values shown in the balance-sheet in respect of "Holdings in Subsidiary Companies" or "House property (i) in the State (ii) out of the State have been increased since the last previous balance-sheet, the certificate required by paragraph (b) of the last foregoing regulation shall state the amount of every increase not solely due to the cost of subsequent additions or, as respects holdings in controlled companies, to increased profits, and shall contain an explanation of the reason therefor.

9. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely :—

(a) "combined balance-sheet" includes any combined statement made by an insurer of assets and liabilities

in the form of a balance-sheet which includes the assets and liabilities of any other insurer ; and

- (b) "market value" means as respects any asset the market value thereof as ascertained from published market quotations, or, if there be no such value, its fair value as between a willing buyer and a willing seller.
-

PART II.

FORMS.

Form A.

Form of Balance-Sheet.

Balance-Sheet of 19 .

Life and Annuity Business. (1)
Other Classes of Business. (2)*
Total.

Life and Annuity Business. (1)
Other Classes of Business. (2)*
Total.

Rs. a. p. Rs. a. p. Rs. a. p.

Shareholders Capital (each class to be stated separately)

Authorised :

.....Shares of Rs.....each Rs.

Subscribed :

..... Shares of Rs.....each Rs.

Loans :

On Mortgages of property within the State.

On Mortgages of property outside the State

On Security of Municipal and other public rates

On stocks and shares

On insurer's policies within their surrender value

On personal security

Called up :

.....Shares of Rs.....each Rs.

Less Unpaid calls Rs.

Reserve or Contingency Accounts (a) :

Investment Reserve Account ..
Profit and Loss Appropriation Account Balance

Balance of Funds and Accounts :

Life Insurance Fund
Fire Insurance Business Account ..
Accident and Miscellaneous Insurance Business Account ..
Other Accounts, if any (to be specified) (d)
Pension or Superannuation Accounts (b)

Debenture Stock per cent.
Loans and Advances (c)
Bills Payable (e)
Estimated Liability in respect of outstanding claims, whether due or intimated (d)
Annuities due and unpaid (d)
Outstanding dividends

To Subsidiary Companies (other than Reversionary) (f)

Reversions and Life Interests :

Reversions and Life Interests purchased ..
Loans on Reversions and Life Interests ..
Debentures and Debenture Stocks of Subsidiary Reversionary Companies (f) ..
Ordinary stocks and shares of Subsidiary Reversionary Companies (f) ..

Loans to Subsidiary Reversionary Companies (f)

Investments :

Deposit
Bonds, Debentures, Stocks and other Securities whereon interest is guaranteed by the Indian Government or a provincial Government
Approved securities
Debentures of any Railway in the State ..
Debentures of any Railway out of the State.
Holdings in Subsidiary Companies (f) ..
House property (i) in the State (ii) out of the State
Freehold and Leasehold ground rents and rent charges

Assets and Liabilities, Shareholders' Capital and Revenues, not allocated to any class of business specified in column (1) must be shown in column (2).

Form A.—(concluded).

Life and Other
Annuity Classes of
Business. Business.
(1) (2)*

Life and Other
Annuity Classes of
Business. Business.
(1) (2)*

Total

Total.

Rs. a. p. Rs. a. p. Rs. a. p.

Rs. a. p. Rs. a. p. Rs. a. p.

Amounts due to other Persons or Bodies
carrying on Insurance Business (c) ..

Agent's Balances

Sundry Creditors (including outstanding
and accruing expenses and taxes) (c). ..

Outstanding Premiums (g)

Other sums owing by the insurer (parti-
culars to be given) (c)

Interest, Dividends and rents accruing but
not due (d)

Contingent Liabilities (to be specified) (e). ..

Amounts due from other Persons or Bodies
carrying on Insurance Business (h)

Sundry Debtors (i)

Bills receivable

Cash:

At Bankers on Deposit Account

At Bankers on Current Account and in hand

At call and Short notice (j)

Other accounts (to be specified) (k)

* Assets and Liabilities, Shareholders' Capital and Reserves, not allocated to any class of business specified in column (1) must be shown in column (2).

Notes.—(a) The Reserves or Contingency Accounts must be separately stated.

(b) If the insurer has not full and unrestricted control of the assets constituting the Pension or Superannuation Accounts either those Accounts and the assets and liabilities relating thereto must be omitted from the balance-sheet or the assets of which the insurer has not such control must be clearly indicated on the face of the balance-sheet.

(c) If the insurer has deposited security as cover in respect of any of these items, the amount and nature of the securities so deposited must be clearly indicated on the face of the balance-sheet.

(d) These items are or have been included in the corresponding items in the Revenue or Profit and Loss Account. Outstanding and accruing interest, dividends and rents must be shown after deduction of income-tax must be provided for amongst the liabilities on the other side of the balance-sheet.

(e) Such items as amount of liability in respect of bills, discounted uncalled capital of subsidiary companies, uncalled capital of other investments, etc., must either be shown in their several categories under the heading "Contingent Liabilities", or the appropriate items on the assets side must be set out in such detail as will clearly indicate the amount of the uncalled capital.

(f) As respects life and annuity business full particulars of holdings in and loans to subsidiary companies must be stated, giving the name of each company, the number and description of each class of shares held, the amounts paid up thereon, and the value at which the holdings in each company stand in the balance-sheet.

(g) Either this item must be shown net or the commission must be provided for amongst the liabilities on the other side of the balance-sheet.

(h) The aggregate amount owing by a subsidiary company or subsidiary companies is to be shown separately from all other assets and the aggregate amount owing to a subsidiary company or subsidiary companies is to be shown separately from all other liabilities.

(i) Amounts due from directors and officers must be shown separately.

(j) No amounts must be entered under this heading unless fully secured. If not fully secured, the amounts must be included under the heading "Sundry Debtors".

(k) Under this heading must be included such items as the following, which must be shown under separate headings suitably described: office furniture, goodwill, preliminary, formation and organisation expenses, development expenditure account, discount on debentures issued, other expenditure carried forward to be written off in future year's balance being Loss on Profit and Loss Appropriation Accounts, etc. The amounts included in the balance-sheet must not be in excess of cost.

(l) Under the head "Other accounts, if any (to be specified)" on the left hand side, fines realized from the staff and their contribution towards the provident fund, if any, should be shown under separate sub-heads.

FORM AA.

Classified Summary of the Assets of the.....Company on 19 .

Class of Asset.	Book value as per (a) below.	Market value as per (b) below.	Remarks as per (c) below.
	Rs.	Rs.	Rs.
(1) Approved Securities
(2) Debentures
(3) Shares and annuities
(4) Loans on the Company's policies
(5) Loans on Mortgage of property in India
(6) Loans on personal security to persons domiciled and resident in the State
(7) Other loans granted in the State
(8) Land and House property in the State
(9) Cash on deposit in Banks and treasury
(10) Cash in hand and on current account in Banks.
(11) Agent's balance and outstanding premiums
(12) Interest, dividends and rents either outstand- ing or accrued but not due
(13) Other assets in the State or outside

The Statement shall show—

- the value for which credit is taken in the balance-sheet for each of the above mentioned classes of assets,
- the market value of such of the above-mentioned classes of assets as has been ascertained from published quotations after deduction of accrued interest included in market prices in those cases where accrued interest is included elsewhere in the balance-sheet,
- how the value of such of the above-mentioned classes of assets as has not been ascertained from published quotations has been arrived at, and
- the rates of exchange at which the values of the assets other than in rupee currency have been converted into rupees.

The market values need not be shown separately where they are not less than the book values and a certificate to that effect is appended to the statement.

No amounts on account of any of the following items may be entered in the statement—

Goodwill.

Preliminary, formation, organisation or development expenses.

Commission or discount on shares or debentures issued.

Commuted Commission.

Expenditure carried forward to be written off in future years.

THE SECOND SCHEDULE.

(See Section 11)

Instructions and Forms for the preparation of Profit and Loss Accounts.

PART I.

INSTRUCTIONS.

1. The items on the income side of the Profit and Loss Appropriation Account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

2. Deductions from Interest, Dividends and Rents to be shown in respect of income-tax must include all amounts in respect of British Indian income-tax whether or not it has been or is to be deducted at source or paid direct.

3. The Interest, Dividends and Rents less income-tax thereon shown in the Revenue Accounts for any classes of business other than life insurance business, including annuity business may, if the insurer so desires, be included with the corresponding items in the Profit and Loss Account.

PART II.

FORMS.

FORM B.

Form of Profit and Loss Account.

Profit and Loss Account of for the year ended 19 .

Rs. a. p.

Rs. a. p.

Taxes on the Insurer's
Profits (not applicable
to any particular Fund
or Account) ...

Interest, Dividends
and Rents (not
applicable to any
particular Fund
or Account)
Rs.

Less-Income-tax
thereon Rs.

FORM B.—(*concluded*).

Rs. a. p.

Rs. a. p.

Expenses of Management (not applicable to any particular Fund or Account)*...

Profit on realisation of investments (not credited to reserves or any particular Fund or Account) ...

Loss on Realisation of Investments (not charged to reserves or any particular Fund or Account) ...

Appreciation of investments (not credited to reserves or any particular Fund or Account) ...

Depreciation of investments (not charged to reserves or any particular Fund or Account) ...

Profit transferred from Revenue Accounts (details to be given).

Loss transferred from Revenue Accounts (details to be given).

Transfer Fees ...

Other Expenditure (to be specified) ...

Other income to be specified) ...

Balance for the year carried to Appropriation Account ...

Balance being loss for the year carried to Appropriation Account) ...

* If any sum has been deducted from this item and entered on the assets side of the balance-sheet the amount must be shown separately.

FORM C.

Form of Profit and Loss Appropriation Account.

Profit and Loss Appropriation Account of _____ for the year ended 19 ____ .

Rs. a. p.	Rs. a. a.
Balance being loss brought forward from last year ...	Balance brought forward from last year Rs. _____
Balance being loss for the year brought from Profit and Loss Account (as in Form B) ...	Less—Dividends since paid in respect of last year (to be specified and if “free of tax” to be so stated)* Rs. _____
Dividends paid during the year on account of the current year (to be specified and if “free of tax” to be so stated)	Balance for the year brought from Profit and Loss Account (as in Form B) ...
Transfers to any particular Funds or Accounts (details to be given) ...	Balance being loss at the end of the year as shown in the balance-sheet ...
Balance at end of the year as shown in the balance-sheet ...	

*Note.—This item may be shown on the other side of the account if preferred.

THE THIRD SCHEDULE.

(See Section 11)

Instructions and Forms for the preparation of Revenue Accounts.

PART I.

INSTRUCTIONS.

1 Form D is, as set out in Part II of this Schedule appropriate for life insurance business but a separate revenue account must be prepared for every class of business in respect of which the insurer is required to maintain a separate account.

2. Form F is, as set out in Part II of this Schedule appropriate for fire insurance business. A separate revenue account in the same form must be prepared for accident and miscellaneous insurance including workmen's compensation and motor car insurance.

3. If any combined revenue account is for any purpose issued by an insurer it must be in accordance with the forms specified in this Schedule and must clearly show on the face thereof that it is a combined revenue account and must set out fully the name of every insurer required to make separate returns under this Regulation whose revenue and expenditure have been included therein, if the revenue and expenditure of any person not being an insurer are included in a combined revenue accounts, the fact must be stated thereon.

4. The items on the income side of the revenue account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

5. Re-insurance premiums, whether on business ceded or accepted, are to be brought into account gross (*i. e.*, before deducting commissions) under the head of premiums.

6. As respects life insurance business the following statements shall be furnished to the Superintendent of Insurance every year showing details provided for in a form pertaining thereto:—

- (a) A statement in form DD as set forth in Part II of this Schedule.
- (b) A statement in form DDD as set forth in Part II of this Schedule.
- (c) A statement in form DDDD as set forth in Part II of this Schedule.

7. The following information shall be supplied in addition to the revenue account, namely, the gross premium written in India for life, fire, and accident and miscellaneous insurance business.

8. Any office premises which form part of the assets of a life insurance fund must be treated as an interest earning investment, and accordingly, in the revenue account for life insurance business a fair rent for the premises must be included under the heading "Interest, Dividends and Rents" and in the revenue account for every class of business for which the premises are used proper charges for the use thereof must be included under the heading "Expenses of Management".

9. Where an insurer carries on the business of life insurance in conjunction with any other class of insurance business the expenses of management charged to the life insurance revenue account must not include more than a reasonable proportion of the common expenses and in particular, no such account must be charged with more than a fair sum for the use of any office premises having regard to the income from the various classes of business carried on and to the extent to which the premises are used for the purposes of each class of business.

10. Deductions from Interest, Dividends and Rents in respect of income-tax must include all income-tax charged on such income whether or not it has been or is to be deducted at source or paid direct.

19 .

	Business within the State.	Business out of the State.	Total.		Business within the State.	Business out of the State.	Total.
	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
Claims under policies (including provision for claims due or intimated) less Re-insurance ..				Balance of Fund at the beginning of the year..			
By death ..				Premiums, Less Re-insurances—			
By maturity ..				(i) First year premiums.			
Annuities, less Re-insurances ..				(ii) Renewal premiums.			
Surrenders (including Surrenders of Bonus), less Re-insurances ..				(iii) Single premiums ..			
Bonuses in cash, less Re-insurances ..				Consideration for annuities granted, less Re-insurances (c) ..			
Bonuses in Reduction of premiums, less Re-insurances ..				Interest, Dividends and Rents Rs.			
Commission (less that on Re-insurances) ..				Less-income-tax thereon Rs.			
Expenses of Management (b)—				Registration Fees ..			
1. Commission and allowances ..				Other income (to be specified) ..			
2. Salaries, etc. (other than to agents and those contained in item No. 1) ..				Loss transferred to Profit and Loss Account ..			
3. Travelling expenses.				Transferred from Appropriation Account ..			
4. Directors' fees ..							
5. Auditors' fees ..							
6. Law charges ..							

FORM D.—(concluded).

	Business within the State.	Business out of the State.	Total.		Business within the State.	Business out of the State.	Total.
	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
7. Advertisements ..							
8. Printing and Stationery ..							
9. Other expenses of management (ac- counts to be speci- fied) ..							
10. Other payments (accounts to be specified) ..							
11. Rents for offices be- longing to and oc- cupied by the in- surer ..							
12. Rents of other offices occupied by the insurer ..							
Bad debts ..							
Other expenditure (to be specified) ..							
Profit transferred to Profit and Loss Account ..							
Balance of Fund at the end of the year as shown in the balance-sheet ..							

NOTES.—(a) In the case of an insurer having his Head Office in the State these columns apply only to business the premiums in respect of which are payable outside India

(b) If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount so deducted must be shown separately. Under this item the salary paid to the managing agent or managing director shall be shown separately from the total amount paid as salaries to the remaining staff.

(c) All single premiums for annuities, whether immediate or deferred, must be included under this heading.

(d) Under the head "Other Income" fines, if any, realised from the staff must be shown separately. All the amounts received by the insurer directly or indirectly whether from his head office or from any other source outside the State shall also be shown separately in the revenue account except such sums as properly appertain to the capital account

(e) In the case of an insurer having his principal place of business outside the State, the expenses of management for business out of the State and total business need not be split up to the several sub-heads, if they are not so split up in his own country.

FORM DD.

Classified statement of life insurance policies of the _____ Company, for the year ending _____ 19 .

	New life insurance business in respect of which a premium has been paid in the year.				Total life insurance business in force at the end of the year.			Premium income for which credit has been taken in the revenue account.
	Number of Policies.	Sums insured and annuities per annum.	Single premiums (including consideration for immediate annuities and all other premiums paid at the outset where no subsequent premium is payable.	Yearly renewal premium income.	Number of Policies.	Sums insured with bonuses and annuities per annum.		
		Rs.	Rs.	Rs.		Rs.	Rs.	
Ordinary Policies.								
In the State	..							
Out of the State	..							
Total	..							
Annuity contracts, etc								
In the State	..							
Out of the State	..							
Total	..							
Group Insurance Policies.								
In the State	..							
Out of the State	..							
Total	..							

The amount should be stated to the nearest rupees and after deduction of re-insurances.

FORM DDD.

*Additions to and deductions from policies of the
Company for the year ending 19*

	Ordinary life insurance policies insuring money to be paid on death or survivance.			Annuities.	
	No.	Sum assured.	Reversionary bonus additions.	No.	Annuity per annum.
		Rs.	Rs.		Rs.
(1) Policies at beginning of year --					
(2) New policies insured --					
(3) Old policies revived --					
(4) Old policies changed and increased --					
(5) Bonus additions allotted					
Total --					
<i>Discontinued during year.</i>					
(6) By death --					
(7) By survivance or the happening of the contingencies incurred against other than death.					
(8) By expiry of term under temporary insurances..					
(9) By surrender of policy..					
(10) By surrender of bonus ..					
(11) By forfeiture or lapse ..					
(12) By change and decrease					
(13) By being not taken up..					
Total discontinued --					
Total existing at end of year					

FORM DDDD.

Particulars of the policies forfeited or lapsed in the last financial year under review, less those revised and reinstated for full benefits, classified according to the year in which they were issued.

Financial year in which the policies were issued.	Number of policies forfeited or lapsed.	Sum insured under policies forfeited or lapsed.
Year ending 19 , being the year under review ...		
Year ending 19 , being the year previous to that under review ...		

And so on, the number of and sum insured under policies forfeited or lapsed in the last financial year under review being stated after classification according to each of the preceding years in which they were insured.

A separate statement must be given in respect of each class of life insurance business for which a separate revenue account is submitted.

Insurers having their principal place of business in the State shall give the information required in the form separately for business transacted in the State and business transacted outside and insurers having their principal place of business outside the State will furnish information regarding business transacted in the State.

FORM E.

Form of Revenue Account applicable to Fire Insurance Business and to Accident and Miscellaneous Insurance Business including Workmen's Compensation and Motor Car Insurance Business.

Revenue Account of
19 , in respect

for the year ended
of Business.

Rs.

Rs.

Claims under Policies, less Re-
insurances (a) (d):

Balance of Account at beginning
of the year

Paid during the year Rs.

Reserve for unexpired
Risks Rs.

Total estimated liability in
respect of outstanding claims
at end of the year whether due
or intimated Rs.

Additional Reserve (if
any) Rs.

Total .. ———

Loss-outstanding at end of
previous year (b) Rs.

Premiums, less Re-insur-
ances (d) —

Interest, Dividends and Rents
Rs.

Less-income-tax thereon Rs.

Commission .. —

Expenses of management (c) —

Bad debts .. —

United Kingdom, Foreign and Dominion
Taxes .. —

Other Expenditure to be specified .. —

Profit transferred to Profit and Loss
Account .. —

Other Income (to be specified) (e) .. —

Loss transferred to Profit and Loss
Account .. —

transferred from Appropriation
Account .. —

Balance of the Account at the end of
the year as shown in the Balance-
sheet:

Reserve for unexpired Risks,
being per cent. of
premium income of year Rs.

Additional Reserve (if any) Rs.

Rs.

Rs.

NOTES.—(a) This heading must include all expenses directly or indirectly incurred in settling claims.

(b) If in any year the claims actually paid and those still unpaid at the end of that year in respect of the previous year or years are in excess of the amount included in the previous year's Revenue Account as provision for outstanding claims, then the amount of such excess must be shown in the Revenue Account.

(c) If any sum has been deducted from this item and entered on the assets side balance-sheet the amount so deducted must be shown separately.

(d) Where the amount is furnished under the provisions of section 11 of the Insurance Regulation, separate figures for claims paid to claimants in the State and claimants outside the State and for premiums derived from business effected in the State and effected outside the State must be given.

(e) All the amounts received by the insurer directly or indirectly whether from his head office or from any other source outside the State shall also be shown separately in the Revenue account except such sums as properly appertain to the capital account.

THE FOURTH SCHEDULE.

(See Section 13)

Instructions for the preparation of Abstracts of Actuaries Reports and Requirements applicable to such Abstracts.

PART I.

INSTRUCTIONS.

1. Abstracts and Statements must be so arranged that the numbers and letter of the paragraphs correspond with those of the paragraphs of Part II of this Schedule.

2. In showing the proportion which that part of the annual premiums reserved as a provision for future, expenses and profits bears to the total of the annual premiums, in accordance with the requirements of paragraph 3 of Part II of this Schedule, no credit is to be taken for any adjustments made in order to secure that no policy is treated as an asset.

3. (1) The average rate of interest yielded in any year by the assets constituting a life insurance fund shall, for the purposes of paragraph 4 of Part II of this schedule, be calculated by dividing the interest of the year by the mean fund of the year; and for the purposes of any such calculation the interest of the year shall be taken to be the whole of the interest credited to the life insurance fund during the year after deduction of income-tax charged thereon (any refund of income-tax in respect of expenses of management made during the year being taken into account), and the mean fund of the year shall be ascertained by adding a sum equal to one-half of the amount of the life insurance fund at the beginning of the year to a sum equal to one-half of that fund at the end of the year, and deducting from the aggregate of those two sums an amount equal to one-half of the interest of the year.

(2) For the purposes of the calculation aforesaid either.—

(a) all profits and income arising during the year from sum invested in reversions shall be included in the interest credited to the life insurance fund during the year; or

(b) such portion of the life insurance fund as is invested in the purchase of reversions, and the profits and

income arising therefrom, shall be excluded from the calculation; but in that case a statement must be added to the information required under the said paragraph 4, showing in respect of the portion of the fund so excluded as aforesaid, the average rate of annual profit and income for which credit has been taken during the five years last preceding the valuation date, and explaining the manner in which the said average rate has been calculated.

(3) The information given in accordance with the requirements of the said paragraph 4 shall show clearly by which of the methods hereinbefore in this instruction mentioned the sums invested in reversions and the profits and income arising therefrom have been dealt with.

(4) Every abstract prepared in accordance with the requirements of Part II of this Schedule shall be signed by an actuary and shall contain a certificate by him to the effect that he has satisfied himself as to the accuracy of the valuations made for the purposes thereof and of the valuation data:

Provided that in the case of an abstract prepared on behalf of an insurance company, if the actuary who signs the abstract is not a permanent officer of the company, the certificate as to the accuracy of the valuation data shall be given and signed by the principal officer of the company and the actuary shall include in the abstract a statement signed by him showing what precautions he has taken to ensure the accuracy of the date.

5. For the purposes of this Schedule the following expressions have the meaning hereby respectively assigned to them, namely:—

“extra premium” means a charge for any risk not provided for in the minimum contract premium;

“inter-valuation period” means, as respects any valuation period; the period to the valuation date of that valuation from the valuation date of the last preceding valuation in connection with which an abstract was prepared under this Regulation or under the enactments repealed by this Regulation or, in a case where no such valuation has been made in respect of the class of business in question, from the date on which the insurer began to carry on that class of business;

“maturity date” means the fixed date on which any benefit will become payable either absolutely or contingently;

“net premiums” means as respects any valuation the premiums taken credit for in the valuation;

"premium term" means the period during which premiums are payable ;

"valuation date" means as respects any valuation the date as at which the valuation is made.

PART II.

REQUIREMENTS APPLICABLE TO AN ABSTRACT IN RESPECT OF LIFE INSURANCE BUSINESS.

The following tabular statements shall be annexed to every abstract prepared in accordance with the requirements of this Part of this Schedule, namely:—

- (a) a Consolidated Revenue Account, in the Form G annexed to this Part of this Schedule, for the interval-valuation period (except that it shall not be necessary to prepare such an account in respect of any class of business so long as the insurer deposits annually with the Superintendent of Insurance an abstract in respect of that class of business) ; and
- (b) a summary and valuation in the Form H annexed to this Part of this Schedule of the policies included at the valuation date in the class of business to which the abstract relates ; and
- (c) a valuation Balance-Sheet in the Form I annexed to this Part of this Schedule ;
- (d) a statement in Form DDD as set forth in Part II of the third Schedule of the additions to and deductions from the number of policies and the sums insured thereunder for each class of life insurance ; and
- (e) a statement in Form DDDD as set forth in Part II of the third Schedule of particulars of policies forfeited or lapsed under each class of life insurance ;

and every such abstract shall show :

1. The valuation date.
2. The general principles and full details of the methods adopted in valuation of each of the various classes of insurances and annuities shown in the said Form H, including statements on the following points:—

(a) whether the principles were determined by the instruments constituting the company or by its regulations or bye-laws or how otherwise ;

(b) the method by which the net premiums have been arrived at and how the ages at entry, premium

terms and maturity dates have been treated for the purpose of the valuation ;

- (c) the methods by which the valuation age, period from the valuation date to the maturity date, and the future premium terms, have been treated for the purpose of the valuation ;
- (d) the rate of bonus taken into account whereby the method of valuation definite provision is made for the maintenance of a specific rate of bonus ;
- (e) the method of allowing for -
 - (i) the incidence of the premium income ; and
 - (ii) premiums payable otherwise than annually ;
- (f) the methods by which provision has been made for following matters, namely :
 - (i) the immediate payment of claims ;
 - (ii) future expenses and profits in the case of limited payment and paid up policies ;
 - (iii) the reserve in respect of lapsed policies not included in the valuation, but under which a liability exists or may arise and whether any reserves have been made for the matters aforesaid ;
- (g) whether under the valuation method adopted any policy would be treated as an asset, and if so, what steps, if any, have been taken to eliminate such asset ;
- (h) a statement of the manner in which policies on under average lives and policies subject to premiums which include a charge for climatic, military or other extra risks have been dealt with ; and
- (i) the rates of exchange at which liabilities in respect of policies issued in foreign currencies have been converted into rupees and what provision has been made for possible increase of liability arising from future variations in the rates of exchange.

3. The table of mortality used, and the rate of interest assumed, in the valuation.

4. The proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums separately specified in respect of insurances with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits.

5. The average rates of interest yielded by the assets whether invested or uninvested, constituting the life insurance fund for each of the years covered by the valuation date.

6. The basis adopted in the distribution of profits as between the insurer and policy-holders, and whether such basis

was determined by the instruments constituting the company, or by its regulations or bye-laws, or how otherwise.

7. The general principles adopted in the distribution of profits among policy-holders, including statements on the following points, namely:—

- (a) whether the principles were determined by the instruments constituting the company or by its regulations or bye-laws, or how otherwise;
- (b) the number of years' premiums to be paid, period to elapse and other conditions to be fulfilled before a bonus is allotted;
- (c) whether the bonus is allotted in respect of each year's premium paid, or in respect of each completed calendar year or year of assurance or how otherwise; and
- (d) whether the bonus vests immediately on allocation or, if not, the conditions of vesting.

8. (1) The total amount of profits arising during the inter-valuation period, including profits paid away and sums transferred to reserve funds or other accounts during that period, and the amount brought forward from the preceding valuation (to be stated separately) and the allocation of such profits.—

- (a) to interim bonus paid;
- (b) among policy-holders with immediate participation, giving the number of the policies which participated and the sum assured thereunder (excluding bonuses);
- (c) among policy holders with deferred participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses);
- (d) among policy-holders in the discounted bonus class, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses);
- (e) to the insurer or, in the case of an insurance company, among shareholders or to shareholders' accounts (any such sums passed through the accounts during the inter-valuation period to be separately stated);
- (f) as carried forward unappropriated.

2. Specimens of bonuses allotted as at the valuation date to policies for one thousand rupees.—

- (a) for the whole term of life effected at the respective ages of 20, 30 and 40 and having been in force respectively for five years, ten years and upwards at intervals of ten years; and

(b) for endowment insurances effected at the respective ages of 20, 30 and 40, for endowment terms of fifteen, twenty and thirty years, and having been in force respectively for five years, ten years and upwards at intervals of ten years;

together with the amounts apportioned under the various manners in which the bonus is receivable.

9. A statement in Form J annexed to this Part of this Schedule of specimen policy reserve values held or required to be held according to the methods adopted in the valuation, and specimen minimum surrender values in respect of whole life insurance policies for Rs. 1,000 with premiums payable throughout life effected at the respective ages of 20, 30, 40 and 50, and immediately on payment of the first, second, third, fourth, sixth, seventh, eighth, ninth, tenth, fifteenth and twentieth annual premium; with similar specimen policy reserve values and specimen surrender values in respect of whole life insurance policies subject to premiums payable for 20 years and of endowment insurance policies maturing at age 55.

10. A statement showing how the liability under any disability clause in a policy has been determined in the valuation with full information of the tables of sickness or accident used for the purpose.

FORM G.

*Consolidated Revenue Account of
years commencing and ending 19 . for*

	Business within the State.	Total.		Business within the State.	Total.
	Rs.	Rs.		Rs.	Rs.
Claims under Policies (including pro- vision for claims due or intimated) less Re-insurances—			Balance of life insurance fund at the beginning of the period ..		
By death			Premiums, less Re-insur- ances ..		
By maturity			Consideration for Annui- ties granted, less Re. insurances (b) ..		
Annuities, less Re-insurances ..			Interest, Dividends and Rents, Rs		
Surrenders (including Surrenders of bonuses), less Re-insurances ..			Less Income-tax thereon (c) Rs.		
Bonuses in cash, less Re-insurances					
Bonuses in reduction of premiums, less Re-insurances ..					
Commission (less that on Re-insur- ances)			Registration Fees ...		
Expenses of Management (a) ..			Other income (to be specified) ...		
Agents' and Canvassers' allowance..			Loss transferred to Profit and Loss Account ..		
Salaries, etc. (other than to Agents and Canvassers)			Transferred from Ap- propriation Account ..		
Travelling expenses					
Directors' fees					
Auditors' fees					
Medical fees					
Law charges					
Advertising					
Printing and Stationery ..					
Other expenses of Management (accounts to be specified) ..					
Other payments (accounts to be specified)					
Rents for offices belonging to and occupied by the company ..					

FORM G—(concluded).

	Business within the State.	Total.	Business within the State.	Total.
Rents of other offices occupied by the company				
Bad debts ..				
Other expenditure (to be specified) ..				
Profit transferred to Profit and Loss Account				
Balance of life insurance fund at end of the period as shown in the balance-sheet				
Rs. ..			Rs. ..	

NOTE.—(a) If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount so deducted must be shown separately.

(b) All single premiums for annuities whether immediate or deferred, must be included under this heading.

(c) Foreign income-tax on Interest, Dividends and Rents must be shown under this heading, less any rebates of income-tax recovered from the revenue authorities in respect of expenses of management.

(d) In the case of an insurer having his principal place of business outside the State the expenses of management for the total business need not be split up into the several sub-heads, if they are not so split up in his own country.

Summary and Valuation of the Policies of as at 19 .

Description of Transactions.	Particulars of the Policies for valuation.					Valuation.		
	No. of policies.	Sums Assured.	Bonuses.	Office Yearly Premiums.	Net Yearly Premiums.	Sums Assured and Bonuses.	Office Yearly Premiums.	Net Yearly Premiums.
								Net Liabilities.

DIVISION L

INSURANCES.

Group A.—

With immediate participation in profits ..	..
For whole term of life ..	..
Other classes (to be specified) ..	..
Extra premiums ..	..
Total insurances ..	..
Deduct-Re-Insurances ..	..
Net Insurances ..	..

Group B.—

With deferred participation in profits ..	..
For whole term of life ..	..
Other classes (to be specified) ..	..
Extra Premiums ..	..
Total Insurances ..	..
Deduct-Re-Insurances ..	..
Net Insurances ..	..

Group C.—

Under discounted bonus systems ..	..
For whole term of life ..	..
Other classes (to be specified) ..	..

FORM H.—(concluded).

Description of Transactions.	Particulars of the Policies for valuation.					Valuation.		
	No of policies.	Sums Assured.	Bonuses.	Office Yearly Premiums.	Net Yearly Premiums.	Sums Assured and Bonuses.	Office Yearly Premiums.	Net Yearly Premiums.
Other classes (to be specified)	—							
Total Annuities	—	—						
Deduct-Re-insurances	..	—						
Net Annuities on Lives						
Total of the results (after deductions of Re-insurances)					

NOTES.—1. Items in this Summary are to be stated to the nearest rupee.

2. No policy of insurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, is to be included in Group A, B, C, or D, of this Form: any such policies must be shown in a separate Group which must be added to the Form.

3. If policies without participation in profits but with a guaranteed rate of bonus are issued they must be separately specified in Group D of this Form.

4. Policies under which there is a waiver of premiums during disability must be shown as a separate class.

5. Separate forms must be prepared in respect of classes of policies valued by different tables of mortality or at different rates of interest or involving the valuation of net premiums on different bases.

6. In cases where separate valuations of any portion of the business are required under local laws in places outside British India and reserves based on such valuations are deposited in such places, a statement must be furnished in respect of the business so valued in each such place showing the total number of policies, the total sums assured and bonuses, the total office yearly premiums, and the total net liability on the bases as to mortality and interest adopted in each such place with a statement as to such bases respectively.

7. Office and net premiums and the values thereof must be shown after deduction of abatements made by the application of bonus.

FORM J.

Specimen policy reserve values and minimum surrender values under a policy for Rs. 1,000.

Number of premiums paid.	AGE AT ENTRY 20.		AGE AT ENTRY 30.		AGE AT ENTRY 40.		AGE AT ENTRY 50.	
	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
15								
20								

NOTE.—Items in this Form to be stated to the nearest rupee.

FIFTH SCHEDULE.

(See Section 13)

Instructions for preparing statements of business in force and requirements applicable to such statements.

PART I.

INSTRUCTIONS.

1. Statements prepared under this Schedule must be prepared, so far as practicable, in tabular form and must be identified by numbers and letter corresponding with those of the paragraphs of Part II of this Schedule.

2. Except with respect to rates of premiums or contribution, items in statements prepared under this Schedule are to be shown to the nearest rupee.

3. Extra premium shown in the forms of Summary and Valuation prepared under the fourth Schedule to this Regulation must not be included in statements prepared under this Schedule.

4. Every statement prepared under this Schedule shall be signed by the actuary making the investigation in connection with which it is prepared.

5. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely :—

- (a) "annual loading" means the provision made for future expenses and profits;
- (b) "extra premiums" means a charge for any risk not provided for in the minimum contract premium ;
- (c) "net premiums" means the premiums taken credit for in the valuation in connection with which any statement is prepared ; and
- (d) "valuation date" means as respects any valuation the date as at which the valuation is made.

PART II.

REQUIREMENTS FOR STATEMENTS APPLICABLE TO LIFE INSURANCE BUSINESS.

The statements required to be prepared under this Part of this Schedule are as follows, namely :—

1. Statements, separately prepared in respect of policies with

and without participation in profits, showing :—

(a) as respects policies for the whole term of life, the rates of office premiums charged, in accordance with the published tables in use, for new policies giving the rates for decennial ages at entry from 20 to 70 inclusive ; and

(b) as respects endowment insurance policies, the rates of office premiums charged, in accordance with the published tables in use for new policies with original terms of ten, fifteen, twenty, thirty and forty years, giving the rates for decennial ages at entry from 20 to 40 inclusive, but excluding policies under which the age at maturity exceeds 60.

2. Statements, separately prepared in respect of policies with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits, showing in quinquennial groups—

(a) as respects policies for the whole term of life—

(i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped according to ages attained ;

(ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable throughout life, and of the corresponding net premiums, grouped according to ages attained ; and

(iii) the amount per annum, after deducting abatements made by application of bonus of office premiums payable for a limited number of years, and either the corresponding net premiums grouped in accordance with the grouping adopted for the purposes of the valuation, or, the annual loading reserved for the remaining duration of the policies, grouped according to ages attained ;

(b) as respects endowment insurance policies—

(i) the total amount assured (specifying sums assured and reversionary bonuses separately) grouped in accordance with the grouping adopted for the purposes of the valuation :

Provided that—

(a) as respects endowment insurance policies which will reach maturity in less than five years, the information required by sub-paragraph (b) (i) of this paragraph must be given, for each year instead of in quinquennial groups ; and

- (b) where the office premiums payable under policies for the whole term of life for a limited number of years, or the office premiums payable under endowment insurance policies, or the corresponding net premiums are grouped for the purposes of the valuation otherwise than according to the number of years payments remaining to be made or where the sums assured under endowment insurance policies are grouped for the purposes of the valuation otherwise than according to the years in which the policies will mature for payment or in which they are assessed to mature if earlier than the true year, then in any such case the valuation constants and an explanation of the method by which they are calculated must be given for each group, and in the case of the sums assured under endowment insurance policies a statement must also be given of the amount assured maturing for payment in each of the two years following the valuation date;
- (ii) the amount per annum, after deducting abatements made by application of bonuses of office premium payable and of the corresponding net premium grouped in accordance with the grouping adopted for the purposes of the valuation
3. Statements as respects any policies in force under which premiums cease to be payable, whether permanently or temporarily during disability arising from sickness or accident, showing the total amount of the office premiums payable.
 4. Statements as respects immediate annuities on single lives for the whole term of life, separately prepared in respect of annuities on male and female lives, showing in quinquennial age groups the total amount of such annuities.
 5. Statements as respects deferred annuities, separately prepared in respect of annuities on male and female lives, showing the specimen reserve values for annuities of one hundred rupees which will be produced on maturity on the basis of valuation adopted at ages, in the case of male lives, 60 and 65, and in the case of female lives, 55 and 60; the said statements must show the specimen reserve values which will be produced under the table of annual premiums in use for new policies, and if under any other table of annual premiums in use for any other deferred annuity policies in force smaller reserve values will be pro-

(73)

duced, the like specimens of these must also be given.

6. Statements as respects any policies of insurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, showing the total claims paid since the date as at which the last statements were prepared under this Part of this Schedule or, where no such statements have been prepared since the date on which the insurer began to carry on the class of business to which the statements relate, and the reserve for unexpired risks and outstanding claims.
-

THE SIXTH SCHEDULE.

(See section 55)

Rule as to the valuation of the Liabilities of an Insurer in Insolvency or Liquidation.

The liabilities of an insurer in respect of current contracts effected in the course of life insurance business including annuity business, shall be calculated by the method and upon the basis to be determined by an actuary approved by the Court, and the actuary so approved shall, in determining as aforesaid, take into account :

- (a) the purpose for which such valuation is to be made;
- (b) the rate of interest and the rates of mortality and sickness to be used in valuation; and
- (c) any special directions which may be given by the Court.

The liabilities of an insurer in respect of current policies other than life policies shall be such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid.

CERTIFICATE.

The above Regulation was passed by the Jammu and Kashmir Praja Sabha on 18th April 1939 corresponding to 6th Baisakh 1996 and received the assent of His Highness the Maharaja Bahadur on 8th August 1939 corresponding to 24th Sawan 1996.

(Sd.) HIRANAND RAINA,

Secretary to Government, Praja Sabha Department.

5752
HIS HIGHNESS' GOVERNMENT, JAMMU AND KASHMIR.

JUDICIAL DEPARTMENT

REGULATION No. 6 OF 1991.



5752
JAMMU :

Printed at The Ranbir Government Press—4-11-91—1000.

1935.

Unit - 78th

Municipal Unit

349.09546

HIS HIGHNESS' GOVERNMENT, JAMMU AND KASHMIR.

JUDICIAL SECRETARIAT.

REGULATION NO. 6 OF 1991.

१ . १

WHEREAS it is necessary to frame a law for the Regulation of Electric power it is hereby commanded as follows:—

Preliminary.

1. (1) This Regulation may be called the Jammu and Kashmir Electricity Regulation No. 6 of 1991.
Short title, extent and commencement.

(2) It extends to the whole of Jammu and Kashmir State.

2. In this Regulation, unless there is anything repugnant to the subject or context:—
Definitions.

(a) "Aerial line" means any electric supply line which is placed above the ground and in the open air.

(b) "Apparatus" means electrical apparatus and includes all apparatus, machines and fittings in which conductors are used, or of which they form a part.

(c) "Circuit" means an electrical circuit forming a system or a branch of a system.

(d) "Consumer" means any person who is supplied with energy by the Department or whose premises are for the time being, connected for the purposes of supply of energy with the works.

(e) "The Chief Engineer" means the Chief Engineer, Electrical Department, His Highness' Government, Jammu and Kashmir, and

“ The Electrical Engineer ” means the Engineer-in-charge of any Supply Centre in Jammu and Kashmir.

(f) “ Daily fine ” means a fine for each day on which an offence is continued after conviction therefor.

(g) “ Distributing main ” means the portion of any main with which a service line is, or is intended to be, immediately connected.

(h) “ The Department ” means the Electrical Department His Highness’ Government, Jammu and Kashmir.

(i) “ Electric Supply Line ” means a wire, conductor or other means used for conveying, transmitting or distributing energy together with any casing, coating, covering, tube, pipe or insulator, enclosing, surrounding, or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy.

(j) “ Energy ” means electrical energy when generated, transmitted, supplied or used for any purpose except transmission of a message.

(k) “ Main ” means any electric supply-line through which energy is, or is intended to be, supplied to the public.

(l) “ Prescribed ” means prescribed by the rules made under this Regulation.

(m) “ Public lamp ” means an electric lamp used for the lighting of any street.

(n) “ Street ” includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have right of way and also the road, way and footway over any public bridge or causeway.

(o) “ Service line ” means any electric supply line through which energy is or is intended to be supplied by the Department:—

(i) to a single consumer either from a distributing main or immediately from the works,

(ii) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point on the distributing main.

(p) “ Volt ” means a unit of electro-motive force, and is the electric pressure which, when steadily supplied to a conductor whose resistance is one ohm, will produce a current of one ampere.

(q) “ Watt ” means a unit of power, and is the energy expended per second by an unvarying electric current of one ampere under an electric pressure of one volt.

(r) “ Works ” includes electric supply lines and any buildings machinery or apparatus required to supply energy and to carry into effect the objects incidental to such supply.

Works.

3. (1) In order to lay down or place electric supply lines the Department may, from time to time:

Provisions as to the opening and breaking up of streets, railways etc.

(a) open and break up the soil and pavement of any street or railway;

(b) open and break up any sewer, drain or tunnel in or under any street, or railway;

(2) Any support of any ærial line or any stay or strut required for the purpose of securing in position any support of an ærial line may be fixed on any building or land or, having been so fixed may be altered notwithstanding the objection of the owner or occupier of such building or land.

(3) If at any time the owner or occupier of any building or land on which any such support, stay or strut has been fixed shows sufficient cause the Department may order any such support, stay or strut to be removed or altered.

4. (1) Where the Department, in exercise of any of the powers conferred by or under this Regulation, opens, breaks up the soil or pavement of any street, or railway or any sewer, drain, or tunnel it shall with all reasonable speed

Street, Railways Sewers, Drains or Tunnels broken up to be reinstated without delay.

fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain or tunnel, opened or broken up, and carry away the rubbish occasioned by such opening or breaking up.

(2) Where the Electrical Department fails to comply with the provisions of sub-section (1), the Department having the control or management of the street, railway, sewer, drain or tunnel in respect of which the default has occurred may execute the work which the Electrical Department has omitted to execute and may debit the expenses incurred in such execution to that Department.

5. The Department shall, before laying down or placing within 10 yards of any part of any Telegraph or Telephone line, any electric supply line or other works (not being either service lines or electric supply lines for the repair, renewal or amendment of existing works of which the character or position is not to be altered) give not less than 10 days' notice in writing to the Telegraph and Telephone authority, specifying.—

- (a) the manner in which the works are to be utilized;
- (b) the course of the works or alterations proposed;
- (c) the amount and nature of the energy to be transmitted;

and the Department shall conform with such reasonable requirements, either general or special as may be laid down by the Telegraph authority within that period for preventing any telegraph line from being injuriously affected by such works or alterations:

Provided that in case of emergency (which shall be stated by the Department in writing to the Telegraph authority) arising from defects in any of the electric supply lines or other works of the Department, the Department shall be required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

6. (1) Where any tree standing or lying near an aerial line, or where any structure or other object which has been placed or has fallen near the aerial line subsequently to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of energy, or the accessibility of any works the Department may cause the tree, structure or object to be removed or otherwise dealt with as it thinks fit.

(2) No poplars, walnuts and conifers within 75 feet, willow and other jungli trees within 50 feet and fruit trees within 30 feet of the E. H. T. line shall be planted. Plantations made in contravention of these orders shall be forfeited to the Government and disposed of by public auction by the Department.

(3) In the case of Government forests, however, the trees required to be removed shall be shown by the Electrical Department to the local forest officer who shall then arrange to fell and dispose them of.

(4) No compensation shall be payable under this section except for such of the fruit trees only as cannot be transplanted, but have to be cut down to clear the lines.

(5) The compensation referred to in sub-section (4) above shall be determined by the Wazir Wazarat in consultation with the Electrical Engineers and in the event of difference of opinion between them, the final award will be given by the Governor.

Supply.

7. (1) The Electrical Engineer or any person duly authorised by him may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which energy is or has been supplied by him for the purpose of:—

Power for Department to enter premises and to remove fitting and other apparatus of the Department.

(a) inspecting and testing the electric supply-lines, meters, fittings, works and apparatus for the supply of energy belonging to the Department; or

(b) ascertaining the amount of energy supplied or the electrical quantity contained in the supply; or

(c) removing, where a supply of energy is no longer required or where the officer is authorised to take away or cut off such supply, any electric supply-lines, meters, fittings, works or apparatus belonging to the Department.

(2) The Electrical Engineer or any person authorised as aforesaid may also, after giving not less than 24 hours' notice in writing to the occupier, enter any premises to which energy is or

has been supplied, by him for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of energy belonging to the consumer.

(3) Where a consumer refuses to allow the Electrical Engineer or any person authorised as aforesaid to enter his premises in pursuance of the provisions of sub-section (1) or sub-section (2) or where such officer has so entered refuses to allow him to perform an act which he is authorised by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance the Electrical Engineer may, after the expiry of 24 hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but no longer.

8. No consumer shall except with the consent in writing of the Department, use energy supplied to him under one method of charging in a manner for which a higher method of charging is in force.

Charges for energy.

9. Where any person neglects to pay any charges, for energy, or any sum other than a charge for energy, due from him in respect of the supply of energy, the Department may, without prejudice to its right to recover such charges or other sum, cut off the supply, and for that purpose cut or disconnect any electric supply-line or other works, being the property of the Department, through which energy may be supplied and may discontinue the supply until such charge or other sum, together with any expenses incurred in cutting off and reconnecting the supply, are paid, but no longer.

Discontinuance of supply to consumer neglecting to pay charges.

10. Where any electric supply-lines, meters, fittings, works, or apparatus belonging to the Department are placed in or upon any premises, not being in the possession of the Department, for the purpose of supplying energy, such electric supply-lines, meters, fittings, works and apparatus shall not be liable to be taken in execution under any process of any civil court or in any proceedings in insolvency against the person in whose possession the same may be.

Exemption of electric supply lines or other apparatus from attachment in certain cases.

11. (1) In the absence of any agreement to the contrary the amount of energy supplied to a consumer or the electrical quantity contained in the supply shall be ascertained by means of a

Meters and Current Limiters.

correct meter or restricted by a current limiter and the Department shall cause the consumer to be supplied with such a meter or current limiter:

Provided that the Department may require the consumer to give security for the price of a meter or current limiter and enter into an agreement for the hire thereof unless the consumer elects to purchase a meter or current limiter.

(2) Where the consumer so enters into an agreement for the hire of a meter or current limiter the Department shall keep the meter or current limiter correct, and in default of the Department doing so the consumer shall, for so long as the default continues cease to be liable to pay for the hire of the meter.

(3) Where the meter or current limiter is the property of the consumer, he shall keep it correct, and in default of his doing so, the Department may, after giving him seven days' notice, so long as the default continues, cease to supply energy through the meter or current limiter.

(4) The Electrical Engineer or any person duly authorised by him shall at any reasonable time and on informing the consumer of his intention have access to and be at liberty to inspect and test, and for that purpose, if he thinks fit, take off and remove any meter or current limiter referred to in sub-section (1); and except where the meter or current limiter is so hired as aforesaid, all reasonable expenses of, and incidental to, such inspecting, testing, taking off and removing shall, if the meter or current limiter is found to be otherwise than correct, be recovered from the consumer.

(5) A consumer shall not connect any meter or current limiter referred to in sub-section (1) with any electric supply-line through which energy is supplied by the Department, or disconnect the same from any such electric supply-line.

(6) Where any difference or dispute arises as to whether any meter or current limiter referred to, in sub-section (1) is or is not correct, the matter shall, upon application, be decided by the Chief Engineer and his decision shall be final.

(7) In addition to any meter which may be placed upon the premises of a consumer in pursuance of the provisions of sub-section (1) the Department may place upon such premises such meter, maximum demand indicator (current limiter) or other

apparatus as it may think fit for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer, or the number of hours during which the supply is given, or the rate per unit of time at which the energy is supplied to the consumer, or any other quantity or time connected with the supply:

Provided that the meter, indicator (current limiter) or apparatus shall not, in the absence of an agreement to the contrary, be placed otherwise than between the distributing mains of the Department and any meter referred to in sub-section (1).

Provided, also, that, where the charges for the supply of energy depend wholly or partly upon the reading or indication of any such meter, indicator (current limiter) or apparatus as aforesaid, the Department shall in the absence of an agreement to the contrary, keep the meter, indicator (current limiter) or apparatus correct; and the provision of sub-sections (4), (5) and (6) shall in that case apply as though the meter, indicator (current limiter) or apparatus were a meter referred to in sub-section (1).

Explanation.— A meter shall be deemed to be “correct” if it registers the amount of energy supplied, or the electrical quantity contained in the supply, within the prescribed limits of error, and a maximum demand indicator or other apparatus referred to in sub-section (7) shall be deemed to be “correct” if it complies with such conditions as may be prescribed in the case of any such indicator or other apparatus.

Rules.

12. His Highness’ Government may make rules for the whole or any part of the Jammu and Kashmir State, to regulate the generation, transmission, supply and use of energy and generally to carry out the purpose and objects of this Regulation.

Powers for Government to make rules.

13. All rules made under section 12 shall be published in the Jammu and Kashmir Government Gazette and on such publication shall have effect as if enacted in this Regulation.

Further provision respecting rules.

Criminal Offences and Procedure.

14. Whoever dishonestly abstracts, consumes or uses any energy shall be deemed to have committed theft within the meaning of the Ranbir Penal Code; and the existence of artificial means for such abstraction shall be *prima facie* evidence of such dishonest abstraction.

Theft of energy.

15. Whoever maliciously causes energy to be wasted or diverted or with intent to cut off the supply of energy, or cuts injures, or attempts to cut or injure, any electric supply-line or works shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Penalty for maliciously wasting energy or injuring works.

16. Whoever (a) connects any meter indicator, or apparatus with any electric supply-line through which energy is supplied by the Department, or disconnects the same from any such electric supply-line, without the permission in writing of the Chief Engineer or of any officer empowered by him in this behalf or (b) lays or erects, or causes to be laid, or erected, or connects up any works for the purpose of transmitting energy to any other works without the permission of the Chief Engineer or of any officer empowered by him in this behalf, or (c) maliciously interferes with or injures any meter, indicator, limiting device or apparatus or wilfully or fraudulently alters the connections, or index of any such meter, indicator, limiting device or apparatus in such a way as to prevent it from properly registering or controlling the consumption of the installation which it is intended to control or uses electrical apparatus of greater consumption than has been consented to by the Department or (d) otherwise improperly consumes or causes to be consumed the energy of the Department, shall be punishable with fine which may extend to three hundred rupees or in the case of a continuing offence with a daily fine which may extend to fifty rupees; and the existence of artificial means for making such connection as is referred to in clause (a), or such means of transmission as is referred to in clause (b), or for causing such alteration or prevention as is referred to in clause (c), or for facilitating such improper use as is referred to in clause (d), shall, where the meter, indicator, limiting device or apparatus is under the custody or control of the consumer, whether it is his property or not, be *prima facie* evidence that such connection, transmission, alteration, prevention or improper use, as the case may be, has been knowingly and wilfully caused by such consumer.

17. Whoever maliciously extinguishes any public lamp shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three hundred rupees or with both.

Penalty for extinguishing public lamps.

18. (1) Whoever negligently causes energy to be wasted or diverted or negligently breaks, throws down or damages any electric supply line post pole or lamp or other apparatus, connected with the supply of energy, shall be punishable with fine which may extend to two hundred rupees.

Penalty for negligently wasting energy or injuring works.

(2) If the break-down of the line as mentioned in sub-section (1) causes injury to any person or loss of life the Police will investigate the matter and take proper proceedings under the law.

19. Whoever, in any case not already provided for by section 14 to 18 (both inclusive) makes default in complying with any of the provisions of this Regulation or with any order issued under it shall be punishable with fine which may extend to one hundred rupees and in the case of a continuing default with a daily fine which may extend to twenty rupees.

Penalty for offences not otherwise provided for.

20. The penalties imposed by section 14 to 19 (both inclusive) shall be in addition to and not in derogation of any liability in respect of the payment of compensation.

Penalties not to affect other liabilities.

Supplementary.

21. (1) Every notice, order or document by or under this Regulation required or authorised to be addressed to any person may be served by post or left:

Service of notices, orders or documents.

(a) Where the Government is the addressee at the office of such officer as the Government may designate in this behalf.

(b) Where a local authority is the addressee at the office of the local authority.

(c) Where a Company is the addressee at the registered office of the company.

(d) Where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Regulation required or authorised to be addressed to the owner

or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises) and may be served by delivering it or a true copy thereof to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

22. Every sum declared recoverable and every fee leviable under this Regulation, may be recovered on application to a Tehsildar having jurisdiction where the person liable to pay the same is for the time being resident, as if it were an arrear of land revenue, and sale of any movable property belonging to such person.

Recovery of sums recoverable under certain provisions of the Regulation.

23. No suit, prosecution or other proceeding shall lie against any public officer or any servant of a local authority for anything done, in good faith, or purporting to be done under this Regulation.

Protection for acts done in good faith.

By command of His Highness the Maharaja Bahadur.

JUDICIAL MINISTER.

THE JAMMU AND KASHMIR ELECTRICITY RULES 1991.

Preamble.—These rules may be called the Jammu and Kashmir Electricity Rules, 1991.

In exercise of the powers conferred by section 12 of the Jammu and Kashmir Electricity Regulation and in supersession of the existing rules, His Highness the Maharaja Bahadur is pleased to direct that the following rules shall come into operation in the whole of the Jammu and Kashmir State, to regulate the generation, transmission, supply and use of energy and generally to carry out the purposes and objects of the Electricity Regulation.

CHAPTER I.

Preliminary.

Rule 1.—These rules extend to the whole of the Jammu and Kashmir State. (Additional rules have been framed for Gulmarg *vide* appendix II).

Rule 2.—In these Rules:—

- (a) “Cut-out” means any appliance for automatically interrupting the transmission of energy through any conductor when the current rises above a predetermined amount.
 - (b) “Use of energy” means the conversion of electrical energy into mechanical or chemical energy, heat or light for the purposes of providing mechanical energy electrolysis, heat or light.
 - (c) “Lighting Load” means the night load used for lighting purposes only.
 - (d) “A licensed contractor” means a person who or a firm which has been appointed by the Department after proper test about capability and reliability to carry out wiring work in the consumers’ premises, and has made a deposit of Rs. 200 in cash.
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CHAPTER 2.

*Conditions of supply of power.**Rule 3.—Application for supply :—*

An application for supply of energy for power or lighting shall be made on the prescribed form which may be obtained free from the office of any Electrical Engineer.

Installations.

Rule 4.—Electric power or lighting installations may be put up either by the Department or by a licensed contractor.

(I) INSTALLATIONS PUT UP BY THE DEPARTMENT.

If any one wishes to have an electric installation carried out by the Department he shall apply on form No. 71 filling in the information required therein. If the Department consents to do the work, it shall send the applicant an estimate of cost of materials, labour and commission charges in accordance with the rates in force, but may not execute the work until the full estimated amount is deposited.

NOTE.—Any difference between the actual and the estimated cost will be payable by or refundable to the applicant on completion of the installation, in the former case before the energy is supplied.

(II) INSTALLATIONS MADE BY LICENSED CONTRACTORS.

(a) Any person requiring electric energy shall apply on form No. 43 E. D. filling in the information therein required.

(b) The Electrical Engineer shall without delay inform the applicant on form No. 45 E.D. whether the electric supply can be given or not.

(c) The applicant shall on hearing that supply can be given arrange with any licensed contractor to carry out his installation.

(d) The licensed contractor shall intimate to the Electrical Engineer in writing on the prescribed form No. 46 E.D. the details of the installation he has contracted to carry out and the date on which the work will be started. Such intimation shall be given not less than 48 hours before the work is started, so that the

Electrical Engineer or his authorised representative may visit the work during construction.

(e) The applicant for current and also the contractor shall give the Electrical Engineer or his authorised representative every reasonable facility during working hours for inspecting the installation whilst under construction.

(f) On completion of the work the contractor shall intimate to the Electrical Engineer in writing on form No. 47 E.D. that the installation is read for inspection and testing giving a complete list of the apparatus installed.

(g) The Electrical Engineer (or any subordinate of his with his written authority) shall inspect and test the installation within 3 days after receipt of the contractor's notice regarding completion of work and no charge shall be made for this work.

(h) If the test is satisfactory and the work is passed, electrical connection shall be given immediately after the agreement form No. 43-A has been duly signed by the would-be consumer (if he is a tenant) and the landlord, and necessary deposit paid as prescribed in Rule No. 36 clause (1).

(i) If the work is not passed, the defects shall be pointed out to the contractor in writing and at site. The contractor shall then make good the defects and apply again in writing for a further test.

(j) A fee of Rs. 5 shall be paid by the contractor in advance for each such test that may be required after the first.

(k) No connection shall be given till the installation has passed the prescribed tests and satisfied the Electrical Engineer in every respect.

(l) If through the fault of a contractor connection to an installation be delayed resulting in inconvenience to the consumer and loss to the Department the contractor shall be liable to a fine not exceeding Rs. 10 at the discretion of the Chief Engineer.

NOTES.—(i) The inspection and testing of electrical installations is undertaken in the interest of the consumer equally with that of the Electrical Department and while every effort will be made to see that both workmanship and material are sufficiently good, the Department undertakes no responsibility to the consumer in the matter.

(ii) In the case of big houses, installations, where electric power is used, for fans, domestic appliances, and heaters as well, besides lighting, separate circuits shall be put up for each purpose.

CHAPTER 3.

Metered and unmetered supply.

Definitions: Rule 5.—(a) “Metered supply” is a supply in which the basis of charge is the reading of a meter which records the actual consumption of energy in B. T. units.

(b) “Unmetered supply” is a supply in which the basis of charge is the capacity of the apparatus.

Rule 6.—All electric light installations shall be provided with meters or current limiters ordinarily at the option of the consumers provided that the Electrical Department may at its discretion direct that in the case of any such installation either meters alone or limiters alone shall be permitted.

Rule 7.—Ordinarily meters and current limiters will be rented from and put up by the Electrical Department and the consumers shall be held responsible for and shall make good any damage or loss due to theft, fire, flood etc. They may buy their own meters and current limiters also but these shall be approved by the Chief Engineer or his authorised representatives and installed by the Electrical Department. In case these get out of order or cease to work altogether necessary repairs or their replacement shall be made by the Electrical Department at the cost of the consumer.

Rule 8.—Separate meters shall be put up for the following circuits:—

- (a) for lighting only;
- (b) for heaters, fans and domestic electric apparatus;
- (c) for power supply for motors etc.

Rule 9.—The nature of supply on the circuits *vide* rule No. 8 shall be as under:—

In Kashmir:—

- (a) Single phase, 25 cycle, 200—220 volts;
- (b) Single or 3 phase, 25 cycle, 200—220 volts;

- (c) For supplies up to 30 H. P. (i) three phase, 25 cycle, 200—220 volts and above 30 H. P. (ii) three phase, 25 cycle, 2000—2300 volts.

In Jammu:—

- (a) Single phase, 50 cycle, 200—220 volts;
 (b) Single or 3 phase, 50 cycle, 200—220 volts;
 (c) For supplies up to 30 H. P. (i) three phase, 50 cycle, 200—220 volts and above 30 H.P. (ii) three phase, 50 cycle, 2750—3000 volts.

Rule 10.—Besides the metered supply as per Rule No. 8 unmetered supply at the discretion of the Electrical Department only may be made in case of the following classes of loads:—

- (a) Lighting load upto 80 watts on flat rate with current limiters.
 (b) Motors without limit.

Rule 11.—The nature of supply in case of loads as per Rule No. 10 shall be the same as defined in Rule No. 9.

CHAPTER 4.

Service lines.

Rule 12.—Free allowance;—(a) For lighting, heating, fan and small domestic apparatus the Department shall supply and erect free of cost to the consumer, service lines with service boards and main fuses within 100 feet from the nearest distribution line pole.

- (b) For power installations, the free allowance shall be as under:—

Up to 5 H. P.	..	..	..	..	100 feet.
Above 5 to 15 H. P.	..	..	..	..	200 „
„ 15 to 25 H. P.	..	..	..	..	400 „
„ 25 to 50 H. P.	..	..	..	..	600 „

N. B. (i)—In case of clause (b) the maker's rated input, subject to the proviso in Rule No. 35 clause (b), shall be accepted in the first instance as the basis for calculating free allowance of service lines.

(ii) In case of metered power installations the free allowance shall be calculated according to the minimum H. P. payable by the consumer as per Rule 35 clause II (ii).

Rule 13.—(a) Beyond what is provided in Rule No. 12 actual cost of the additional length of the service line shall be charged from the consumer in advance.

(b) Purchasers of power under Rule No. 9 (b) may, if the supply be of a temporary nature, obtain the materials for their service line from the Department on hire to be fixed by the Chief Engineer but they shall be required to pay all costs for erection and dismantling.

Rule 14.—All new consumers shall have to make a deposit as security for service board and line as per following schedule for getting their installations connected with the supply mains of the Electrical Department:—

(1) INSTALLATIONS FOR LIGHTING, HEATING FAN ETC.—

	Rs.
(a) Upto $\frac{1}{2}$ K. W. installed load	15
(b) „ $2\frac{1}{2}$ K. W. installed load	20
(c) „ 5 K.W. installed load	30

(2) INSTALLATIONS FOR MOTORS ETC.—

(a) Upto 5 K. W.	30
(b) „ 15 K. W.	40
(c) „ 25 K. W.	55
(d) „ 50 K. W.	75

Charges above these rates will be *pro rata*.

NOTE.—The Department will not allow any interest on deposits made under this clause.

Rule 15.—The Department shall supply and erect service line up to 100 feet on the first occasion, and for subsequent renewal of the lines the charges shall be borne by the consumer.

Rule 16.—Service lines put up at the cost of consumers will become the property of the Electrical Department which will maintain these at its own cost.

Rule 17.—Any consumer wishing to make any alterations in his service line to suit his convenience after the line is put up by the Department for the first time shall be required to bear the cost of making such alteration as estimated for by the Electrical Engineer subject to the conditions in Rule No. 18.

Rule 18.—The position of the service board will be determined by the authorised representative of the Department in consultation with the consumer. The Department shall in no case fix up the service board nor allow the same to remain in any position which entails entry into purdah or religious quarters where free access without previous notice cannot be obtained.

CHAPTER 5.

Supply to house boats, temporary installations or religious buildings requiring lights only occasionally.

Rule 19:—House-boats.—(1) The Department shall supply electric energy to house boats wherever possible from the supply lines, along the embankment.

(2) Consumers desiring to have electric supply shall be required to moor their boats near the supply lines.

(3) An unwired boat may occupy a mooring site where facilities for electric light exist, but shall leave it as soon as it is required for a wired boat.

Rule 20.—Temporary installations:—(1) Electric supply may be given for temporary installations:—

(a) If erected at the expense of consumer under the rules for metered or unmetered supply.

(b) If erected by the Department at special rates to be fixed by the Chief Engineer according to cost of materials used.

(2) No temporary lighting installation the capacity of which is less than 40 watts shall be allowed, nor shall it be allowed, to continue for more than 3 months ordinarily except in special circumstances at the discretion of the Chief Engineer.

*Rule 21 :—Occasional supply:—**(i) SUPPLY TO RELIGIOUS OR OTHER BUILDINGS AND INSTITUTIONS
REQUIRING LIGHTS OCCASIONALLY.*

Buildings of this class if supplied on the unmetered system shall be charged proportionately for each light that electric energy is used subject to a minimum charge of Rs. 1-6-0 per mensem.

The main switch of each such installation shall be sealed by the Electrical Department and the institution will be required to give 6 hours previous notice when the supply is wanted. The usual charge for unsealing and sealing shall be made as per Rule 35 clause (VI).

(ii) ELECTRIC ILLUMINATION.

Electric energy may be supplied for illumination on the occasion of religious festivals, public function and marriages etc. as under:—

(a) If the installation is put by the Department using its own materials, the consumer shall have to pay in addition to power charges at sanctioned rates hire and depreciation charge for the materials used and labour for erection and dismantling as also the cost of any lamps that may become unserviceable. Advance payment shall be made by the consumer on submission of estimates by the Electrical Department.

(b) Power charges shall be payable for the actual number of days only subject to a minimum of Rs. 1-6-0.

CHAPTER 6.

Inspection and illegal use of energy.

Rule 22.—The Department shall have a right at all reasonable times to enter upon premises to which the energy is supplied for the purpose of inspecting meters, current limiters and fuses and for other purposes connected with the apparatus belonging to the Department and should any fault be detected to discontinue the supply with a proper notice to the consumer until such

fault has been rectified. If, however, it is found necessary at any time to inspect and test the part of an installation fitted in the portion of the premises occupied as family quarter, the Department may, if so desired by the consumer postpone such inspection or test to any time not exceeding 24 hours, but if no access is given to every part of the installation at the appointed time the installation may be disconnected forthwith and a notice served upon the consumer immediately.

Rule 23.—After the tests have been carried out and the installation once passed, no additional energy consuming apparatus shall be connected to any circuit, nor shall any apparatus of a higher capacity be substituted for the one that has been passed, nor shall any alteration be made in the position of wiring therein until an application describing the apparatus or the alteration to be made in the wiring has been submitted and a notice received that the same has been accepted.

If in contravention to this rule it is found at any time on inspection that any additional or a higher power consuming apparatus has been connected with the circuit or any alteration has been made in the wiring the installation shall be disconnected forthwith, and reconnection shall not be made until the additional or the higher power consuming apparatus has been removed or its addition or substitution got approved. The consumer shall also be liable in this case to pay power charges according to the capacity of the additional or substituted apparatus for three months previous to the date of inspection. Reconnection will be made after disconnection under this rule on payment of the fee as provided in Rule No. 35 clause (VII).

Rule 24.—Any person connecting any installation or part of installation to the supply mains, or persuading or endeavouring to persuade any person to do so without the authority of the Chief Engineer or the Electrical Engineer concerned, shall be liable to penalties as follows:—

- (a) If the person responsible is a licensed contractor he will be liable to a fine not exceeding Rs. 50.
- (b) If the person responsible is a consumer his installation shall be disconnected forthwith and reconnection will not be given until he pays the cost of power consumed according to the number and capacity of the apparatus found on inspection for the previous three months according to the rates in force then together

with the reconnection fee of Rs. 5 under Rule 35 caluse (VII).

Rule 25.—It shall be unlawful for any consumer to use electric heaters, cookers, irons, kettles or any electric appliance excepting lamps unless installed on a different circuit with a meter from the lighting circuit with a current limiter, or on the lighting circuit with a meter.

NOTE :—Power consumed by electric heaters etc. on a separate meter from the meter on the lighting circuit will be charged at 0-2-0 per unit against 0-6-0 per unit for lighting.

Rule 26.—All dealers in electric materials who will be licensed by the Chief Engineer, Electrical Department shall be bound to report either to Chief Engineer, Electrical Department or the Electrical Engineer of the place, the names and addresses of purchasers of electric appliances excepting lamps.

Rule 27.—The provision in Rule 26 above will apply alike to all *bona fide* local manufacturers of electric heaters and other electric power consuming devices excepting lamps.

Rule 28.—The license fee for these dealers and manufacturers as per Rules 26 and 27 will be Rs. 200 as it is for the wiring contractors.

CHAPTER 7.

Miscellaneous.

Rule 29.—(a) *Free wiring.*—The Department will not undertake, any more to put up wiring on any premises on free wiring system.

In case of installations already put up on this system a rental of 0-3-0 per point per month shall be payable in addition to the charges for energy until such time as the installation is purchased by the consumer. The rental will be payable during the period of disconnection as well except in case of State and Residency officials who whether occupying public or private quarters, will not be liable for rental for a period during which they do not occupy their quarters by reason of their duty, provided that no less than 48 hours' notice is given of the fact that the quarters are to remain unoccupied.

(b) In case of the existing free wired installations should the consumer wish to purchase the installation at any time, he may do so on payment of a value to be assessed by the Department.

Rule 30.—Failure of supply.—(a) While every effort will be made to give a continuous supply the Department does not in any way accept responsibility for inconvenience or loss to consumers through interruption of supply, but if the Department fails to give supply for lighting for 3 consecutive nights the Chief Engineer, Electrical Department shall remit charges for the current only for the period of failure in the case of all consumers who pay for unmetered supply *vide* Rule No. 35 (I-A).

In the case of unmetered power installations, the liabilities of the Department for refunds are entered in clause *iii* (7) of the standard form of agreement which the customer will be required to sign.

(b) If the failure of supply is due to the burning out of the main fuse belonging to the Electrical Department notice should be given to the Electric supply office or the nearest sub-station for replacement which will be done and the prescribed fee (as per rule 35 clause VI) charged.

Rule 31.—The Department does not accept any responsibility for inconvenience or loss to consumers due to use or misuse of electrical energy.

Rule 32.—Disconnections and reconnections.—Consumers other than industrial power consumers may, on giving 24 hours' notice in writing, have their installations disconnected after which no charges for current shall be made until reconnection is made which may be done at any time after similar notice and payment of the prescribed fee. Failing such notice the consumer shall be and remain liable for all charges which may become due to the Department in respect of his installation until such date as a notice in writing has been received by the Department.

In the notice for disconnection it should be distinctly stated if the meter or current limiter is to be removed or left at the consumer's premises during the period of disconnection. The charges for removal and refitting of the meter or current limiter shall be as per Rule No. 35 clause 10.

Rule 33.—Sealing of Electric apparatus.—All meters, current limiters and main fuse boxes shall be sealed by the Department

directly they are installed on the premises. The consumer should satisfy himself that the meter, current limiter main fuse or any other apparatus has been properly sealed by the Department immediately before the commencement of supply and also after it has been opened by the Department for any purpose whatever.

If the seal on any apparatus described above is found broken or removed at any time on inspection it shall be presumed that the apparatus has been tampered with and the installation shall be disconnected at once and a reconnection fee of Rs. 5 shall be payable by the defaulter before the installation is reconnected and a new seal affixed. In such cases the Department reserves to itself the right to take such further civil or criminal proceedings as may seem necessary.

Rule 34.—The generation of electric power for lighting purposes from the electric power supplied by the Department under any of these rules is prohibited.

NOTE.—(a) The supply of electric power to Cinemas for motor-generator sets will be treated as power supply either on flat as meter rate at the discretion of the Chief Engineer, Electrical Department.

(b) The supply of electric power to Cinemas using incandescent lamps off the supply mains of the Department will be charged at lighting rates, under Rule 35 clause 2 (i).

CHAPTER 8.

Charges.

SCALE OF CHARGES.

Rule 35.—I. The following is the scale of charges for the supply of electricity on flat rate, controlled by current limiters, at the discretion of the Chief Engineer, Electrical Department.

A.—Class (a), Rule No. 10.

LIGHTING LOAD.

For each 20 watt lamp or the equivalent (usually for night supply only) per month Re. 0 11 0

NOTES.—(i) Power supplied for lighting on flat rate on current limiter-should not be used for any other purpose such as for domestic electric appliances, fans, heaters, etc., without paying for those separately at their scheduled rates

(ii) Supply of power for lighting in Mohora and Jammu Generating Stations will be given free to the employees of the Electrical Department.

*B.—Supply of power for motors etc., on flat rate—
Class (b) Rule No. 10.*

	Rs.	a.	p.
For a 24 hours supply	10	0	0
For a 18 hours supply (from 11 p.m. to 5 p. m.) in winter and 12 midnight to 6 p.m. in summer ..	8	8	0
For 12 hours supply (from 5 a. m. to 5 p. m.) in winter and (7 a.m. to 7 p.m.) in summer ..	7	8	0
For 12 hours night supply (from 5 p. m. to 5 a. m.)	5	0	0

(This supply will be made subject to the discretion of the Chief Engineer)

Per H. P. per month based on the actual consumption test by the Chief Engineer or Electrical Engineers or their authorised representatives who may at any time and without notice besides the original test make consumption tests when the plants are running and the Chief Engineer may revise the original test results according to these tests.

The average power factor at any point of supply shall not be less than 80 per cent. and in the event of the said power factor being found to be less than 80 per cent., the consumer shall be liable to an extra charge (over and above the flat rate as per rule 35 (b) according to the following sliding scale:—

Power factor.	Extra charge.
·75 to ·79	Re. 0-8-0 per H. P. per month.
·70 to ·74	Re. 1-0-0 „ „ „

No supply of power shall be allowed if the power factor is found to be below 70 per cent. In such cases consumers shall improve power factors by using static condensers.

C.—Class (c) Rule No. 10.

HEATERS.

For 12 hours' use during day time (from 5
a. m. to 5 p. m.) .. Rs. 10 per month
per K. W.

For 12 hours' use during night time (from 5 p. m. to 5 a. m.) at the discretion of the Chief Engineer .. Rs. 6-8-0 per month per K. W.

For 24 hours' use at the discretion of the Chief Engineer .. Rs. 13-8-0 per month per K. W.

TABLE AND CEILING FANS.

					Rs. a. p.
Capacity up to 50 watts..	..	2	0	0	p.m.
„ „ 75 „ ..	..	2	8	0	„
„ „ 100 „ ..	..	3	0	0	„
„ „ 125 „ ..	..	3	8	0	„
„ „ 150 „ ..	..	4	0	0	„

NOTES:—(a) The rent for the fan (if hired out) will be 15 per cent. of its book value for a period of 6 months and $2\frac{1}{2}$ per cent. for any succeeding month or part of a month. If taken for less than 6 months, the rent will be 4 per cent. of the book value per month or part of a month.

(b) Additional rules for fans are given *vide* appendix I.

II. The following will be scale of charges for metered installations:—

(i) Supply of power for lighting.

(a) Class (a) Rule 8 .. Re. 0-6-0 per B.T. unit (subject to a minimum of Rs. 1-6-0 p.m.)

(ii) Supply of power for motors, heaters, fans and all kinds of power consuming devices except lamps.

Class (b) Rule 8 ... Re. 0-2-0 per B.T. unit subject to a monthly minimum charge as per following scale:—

(a) Rs. 2 p. m. per each H. P. of rated capacity of motor.

(b) Rs. 2-8-0 p. m. per K. W. capacity of heater.

(c) For fans :—

				Rs.	a.	p.	
50	Watt capacity	..	..	0	12	0	p.m.
75	„ „	..	..	1	0	0	„
100	„ „	..	..	1	4	0	„
150	„ „	..	..	1	12	0	„

NOTE:—In case where supply of power for lights, heaters, fans industrial motors and other domestic appliances connected on flat rate system is required for part of a month only the charges thereof will be calculated as under :—

(a)	For a period from	1 day to 3 days	..	..	Rs.	$\frac{1}{8}$ th	of a month.
(b)	„ „ „	4 days to 7 „	..	..	„	$\frac{1}{4}$ th	„ „
(c)	„ „ „	8 „ to 15 „	..	..	„	$\frac{1}{2}$ nd	„ „
(d)	„ „ „	16 „ to 23 „	..	..	„	$\frac{3}{4}$ th	„ „
(e)	„ „ „	24 „ to 30 „	..	..	Full	month.	

III. (i) *Hire of meters, 220 volt, single phase, 25 cycle, will be as under :—*

(a)	Upto 5 amps. capacity	..	..	Re.	0- 8-0	p.m.
(b)	Upto 20 amps. capacity	..	..	„	0-12-0	„
(c)	Upto 40 amps. capacity	..	..	„	1- 0-0	„

(ii) *Hire of meters, 3 phase, 220 volt, 25 cycle.*

(d)	40 to 60 amps. capacity	..	..	Rs.	1-4-0	p.m.
(e)	60 to 100 amps. capacity	..	..	„	2-0-0	„

NOTE:—No single phase installation should be of more than 2000 watt capacity.

IV. Hire of meters on 2300 Volt circuits will be quoted on application to the Chief Engineer. This will be calculated at 15 per cent. per year on the total cost of each set of meters.

V. The rent of current limiters will be at 0-3-0 p. m.

VI. Charges for disconnexion or reconnexion at consumer's request *vide* rules 21 and 32 will be 0-4-0. The same charges will be payable for replacement of fuse *vide* rule 30 (b).

VII. Reconnexion fee after disconnexion under rule No. 22, 23, 24 and 33 will be Rs. 5.

VIII. Reconnexion fee after disconnexion under rule No. 36 clause 5 will be Rs. 2.

IX. For power installations consuming more than 100 H. P. special rates may be allowed with the sanction of the Government.

X. An amount of 0-8-0 will be payable by a consumer for removal of one or more meter or current limiter at a time from his premises if so desired and the same amount will be payable for refitting the same.

Rule 36.—Terms of payment.—(1) All applicants for the supply of power shall make a deposit as per following scale:—

	Rs.
Total capacity of an installation not to exceed 40 watts..	4
„ „ „ „ „ „ 60 „ ..	6
„ „ „ „ „ „ 80 „ ..	8
„ „ „ „ „ „ 100 „ ..	10

and so on at the rate of Rs. 2 for each 20 watts' increase of power consumption, before electric energy is supplied to their premises. This sum less any outstanding shall be refunded to them when the installations are disconnected permanently.

NOTE.—The Department will not allow any interest on deposits made under this clause.

(2) The agreements for the supply of electric power shall be signed both by the occupant and the owner of the premises or his representatives in which the installation is to be located. Both parties shall be held jointly and severally responsible for payment of all sums due to the Department.

In the absence of the owner's signature on the agreement the occupier shall be called upon to pay in advance 2 months' charges at a time.

In case of transfer by sale of a house fitted with an electric installation having arrears against it the responsibility for clea

ance of the outstanding shall devolve on the purchaser if realized from the owner before the sale.

(3) Should a consumer dispute the accuracy of a meter, he may on sending a notice in writing and on payment of a fee of Rs. 3 have it tested by the Department. If on such test, it is found that the meter is recording more than 5 per cent. in excess of the actual consumption, the Department shall refund to the consumer, the amount recovered in excess during the previous 3 months together with the fee of Rs. 3. If the meter is found registering more than 5 per cent. less than the actual consumption, amount of short recovery during the previous 3 months shall be paid by the consumer. In this case as also in case of the meter being found recording correctly the fee recovered shall go to the Department.

(4) In the case of all metered installations, and Government offices and other big installations, supplied on flat rate, bills shall be sent monthly and shall be paid in full within 15 days of the date of issue.

The consumers of small installations on flat rate shall be provided with permanent account books which they shall present at the electric office every month at the time of making payment of lighting charges (which shall be done by the 15th of the next month) for making necessary entries therein. The consumer shall satisfy himself before leaving the office that the amount paid has been properly entered in his book and that he receives a separate receipt for the payment made.

(5) In the event of non-payment of bills within the prescribed period an extra charge of 0-2-0 per rupee on the total amount of the bill shall be made, and if the bill is not paid even after a month the installation shall be disconnected without any warning, and reconnexion shall be made only on payment of all dues together with the prescribed fee of Rs. 2 for reconnexion *vide* Rule 35 clause VIII.

No reconnexion fee shall, however, be charged if the payment of dues is received within office hours of the day on which the disconnexion is made.

CHAPTER 9.

Reservations.

Rule 37.—The Department reserves the right of refusing to supply electric energy to any applicant or to discontinue the supply at any time without assigning cause for it.

Rule 38.—Notwithstanding anything in these rules His Highness' Government reserves to itself the right to make any contract for the sale of current or hire of plant at any rate or upon any term that it may think fit.

By command of His Highness the Maharaja Bahadur.

HOME & JUDICIAL MINISTER.

APPENDIX I.

Additional rules for supplying electric fans on hire at Jammu.

1. All applications for fans on hire are to be submitted to the Electrical Engineer.
2. The cost of the fan will be deposited by the applicant with the Electrical Engineer before any fan is issued. The deposit will be refunded in full when the fan is returned in good order and all dues for rent and power have been paid.
3. Cost of wiring that may be required is to be borne by the applicant.
4. Any damage beyond fair wear and tear will be paid for by the applicant. The decision of the Electrical Engineer shall be final as regards the amount of damage.

By command of His Highness the Maharaja Bahadur.

HOME AND JUDICIAL MINISTER.

APPENDIX II

Additional rules for supply of electric energy in Gulmarg.

1. The wires and fittings etc., installed on free wiring system in any hut shall be deemed to be the property of the Electrical Department unless paid for by the owner of the hut.

2. The Department shall not be responsible for any repairs or maintenance of lamps, wires and fittings in the hut which is already borne on free wiring system. It will, however, do so at the cost of the consumer.

3. The consumer shall, until purchase, pay a sum of Re. 1 per point per season, as rent, in addition to the usual lighting charges under the rules.

4. If the consumer or the occupier of the hut neglects or refuses to pay for the use of the said wires and fittings; the Department may, at any time enter the premises and remove the fittings and wires and the consumer will be liable to pay either "hire of fittings for the remaining period of the agreement" or "cost of labour on fitting and removing of the electrical fixtures and of material damaged, plus 20 per cent. commission on the total".

5. The Department will not be responsible for accidental stoppage of current. Every endeavour will, however, be made to keep the supply continuous at the earliest possible moment.

(a) But if the power is not restored for 4 consecutive nights the Department shall on application remit charges for current only for the whole period of failure.

(b) The Department shall not accept any responsibility for inconvenience or loss that may occur to consumers due to use or mis-use of electric energy in their installation.

6. All electric charges must be paid in full in advance within three days from the date of the service of the notice, otherwise the supply will be cut off and a fine of Rs. 5 will be charged before a reconnection.

(a) A fee of -/8/- shall be charged from consumers for each subsequent reconnection and disconnection made in their installation in the ordinary course.

7. No one other than the authorised person of the Electrical Department shall have the right to remove or refit any apparatus in the building without the proper consent of the Electrical Department.

8. The monthly charges for electric energy will be Re. 1 per 20 watt. lamp per month and lamps of more than 20 watt. capacity will be charged for proportionately according to increase.

9. No installation shall consist of less than 2-20 watt lamps.

10. Metered supply will be given only to small machines such as, hair dressers, air compressors and hair curlors etc., etc., and will be charged for according to the consumption at the rate of -/8/- per unit.

(a) A minimum charge of Rs. 2 p. m. will be charged in case the consumption does not exceed 4 units.

(b) The rental of meters will be as follows :—

for 5 amp. meter	.. Re. 1	} The rent will be charged monthly.
for 10 amp. meter	.. Rs. 2	
for 40 amp. meter	.. Rs. 4	

11. The industrials' motors shall be charged at the rate of Rs. 9 H. P. per month for 12-hours' day use.

12. An inventory of electric fittings installed in the hut is fixed on the switch board and the occupant of the hut will be required in his own interest to check the fittings at the time of his occupying the hut and any discrepancy found, should at once be reported to the Electrical Department. In case of failure the occupant shall have to make good the loss himself.

13. A breach of agreement entered into by the consumer with the Electrical Department shall give the Electrical Department the right of entering the premises and removing all electric materials and recovering all dues for light, rent, etc., that may be due by the consumer.

14. The lessee shall inform the Installation Inspector stationed at Gulmarg of his intention to vacate the hut, at least 2 days before he actually does so. On receipt of such information, the Inspector and the Sub-Divisional Officer will go on the spot and check the fittings in the presence of the lessee, and recover the cost of any missing material from him in accordance with the terms of his contract with the Electrical and the Public Works Department. The wires and fitting shall then be made over to the chowkidar of the hut, who shall be responsible for any loss that may afterwards occur.

15. Notwithstanding anything contained in these rules, the Kashmir Government reserves to itself the right of making any contract for the sale of current or hire of plant at any rate or upon any terms that it may think fit.

By command of His Highness the Maharaja Bahadur.

HOME AND JUDICIAL MINISTER.

HIS HIGHNESS' GOVERNMENT, JAMMU AND KASHMIR.

TOWN AREA REGULATION

No. 4 OF 1990.



JAMMU :

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1937.

TOWN AREA REGULATION NO. 4 OF 1990.

A Regulation to make better provision for the water supply, sanitation, lighting and other improvements in town areas in the Jammu and Kashmir Provinces.

WHEREAS it is expedient to make better provision for the water supply, sanitation, lighting and other improvements in town areas in the Jammu and Kashmir Provinces ; it is hereby commanded as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Regulation may be called the Jammu and Kashmir Provinces Town Areas Regulation of 1990. Short title, commencement and extent.

(2) It shall come into force atonce ; and

(3) It extends to the Provinces of Jammu and Kashmir.

2. In this Regulation, unless there is anything repugnant in the subject or context,— Definitions,

(1) an act shall be deemed to be the act of a panchayat when it is done with the previous consent of, or of a majority of, all such members for the time being serving on the panchayat as are not incapacitated by illness or absence from the town area from signifying their consent thereto :

Provided that it is done with the previous consent of at least two members of the panchayat ;

- (2) "annual value" means the gross annual rent at which any house or land may be reasonably expected to let from year to year ;
 - (3) "house" includes any shop, warehouse, shed or enclosures used for keeping carts or cattle ;
 - (4) "land" does not include land used for agricultural or pastoral purposes ;
 - (5) "occupier" means, in the case of a house let out to several tenants or to lodgers or travellers, the person who lets the house or receives or is entitled to receive, the rents or payments from the tenants or the lodgers or travellers ;
 - (6) "prescribed" means prescribed by this Regulation or by any rule or order made thereunder ;
 - (7) "public road" means any road, street, thoroughfare passage or place over which the public have a right of way ;
 - (8) "town area" means any local area which the Government of His Highness the Maharaja Babadur of Jammu and Kashmir has declared or defined under Section 3 to be a town area ; and
 - (9) "town Magistrate" means, in respect of any town area, the Sub-Divisional Magistrate in charge of the Sub-Division within which such town area is situated, unless and until some other Magistrate has been appointed under Section 4, in which case the expression means such other Magistrate.
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CHAPTER II.

TOWN AREAS, MAGISTRATE, PANCHAYAT AND
SERVANTS.*Town Areas.*

3. (1) The Government of His Highness the Maharaja Bahadur of Jammu and Kashmir may by notification in the Gazette:— Declaration and definition of town areas.

(a) declare any town, village, suburb, bazar, or inhabited place to be a town area for the purposes of this Regulation and may unite, for the purpose of declaring the area constituted by such union to be a town area, the whole or a portion of any town, village, suburb, bazar or inhabited place with the whole or a portion of any other town, village, suburb, bazar or inhabited place;

(b) define the limits of any town area for the like purposes;

(c) include or exclude any area in or from any town area, so declared or defined; and

(d) at any time cancel any notification under this section provided that an agricultural village shall not be declared, or included within the limits of, a town area.

(2) The decision of the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir that any inhabited area is not an agricultural village within the meaning of the proviso to sub-section (1) of this section shall be final and conclusive, and the publication in the Gazette of a notification declaring such area to be a town area or within the limits of a town area shall be conclusive proof of such decision.

Town Magistrate.

Appoint-
ment of town
Magistrate,

4. The District Magistrate may appoint any Magistrate, other than the Sub-Divisional Magistrate, to exercise the powers and perform the duties of the Town Magistrate under this Regulation in respect of any town area.

Town Panchayat.

Constitu-
tion of town
panchayat.

5. (1) A panchayat shall be established for each town area.

(2) The panchayat shall ordinarily consist of—

(a) Nominated Chairman ;

(b) Three or more members to be appointed by the Revenue Minister or elected in the manner hereinafter prescribed or partly so appointed or partly so elected as the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir may by general or special order prescribe.

Proviso.—At least one-third of the members of the panchayat shall be elected.

(3) Only persons whose names are enrolled as electors of the town areas shall, subject to the provisions of Section 7 be eligible as members of the panchayat in the prescribed manner :

Provided that in the absence of the roll of electors all the members of the first panchayat will be nominated by the Revenue Minister.

Term of
office of
member of
panchayat.

6. The term of office of a member of panchayat shall be four years subject to the provisions of Section 7 and shall commence from the date of election or nomination, or when the election or nomination has been made before the vacancy has occurred from the date on which the vacancy occurs:

Provided that the term of office of a member

elected or appointed to fill a casual vacancy shall be the residue of the term of the outgoing member :

Provided that the term of office of the first nominated panchayat will be two years:

Provided also that for the purpose of making any change in the composition of a panchayat, or holding an election, or for any similar purpose, the local Government may curtail or extend the term of office of the members or of any member of a panchayat.

(2) If a member wishes to resign he shall forward his resignation in writing to the Revenue Minister. He shall be deemed to have vacated his office from the date of receipt by the panchayat of information that his resignation has been accepted by the Revenue Minister.

(3) An outgoing member shall, if otherwise qualified, be eligible for re-election or re-appointment.

7-A. (1) A person, notwithstanding that he is qualified under the rules, shall not be enrolled as an elector or be nominated or be elected as chairman or as a member of the panchayat, or continue to be an elector or a member or chairman if he is, or becomes, subject to the following disqualifications:—

Removal
of member of
panchayat,

(a) that he has not attained the age of 21 years; or

(b) that he is not a State-subject ; or

(c) that he has been adjudged by a competent court to be of unsound mind ; or

(d) that he is an undischarged insolvent ; or

(e) that he has been ordered to find security for good behaviour in consequence of proceedings taken under Section 109 or Section 110 of the Code of Criminal Procedure, such order not having been

subsequently reversed and a period of five years from the date of the order has not elapsed ; or

(f) that he has been convicted for any offence involving moral delinquency and sentenced to imprisonment for period of over six months ; or

(g) that he is in arrears in the payment of any dues to the town area :

Provided that a disqualification under clause (e) and (f) may be removed by an order of the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir in his behalf.

7-B. (1) The Revenue Minister may, after affording him an opportunity to make an explanation, remove any member of a panchayat who, in his opinion, has so abused his position as a member as to be unfit to act as such member or who is persistently remiss in the discharge of his duties as a member.

(2) A member removed under this section shall not be eligible for further election or nomination for a period of three years from the date of his removal :

Provided that the member so removed shall be entitled to appeal to the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir within one month from the date of communication of removal order to him.

7-C. Every member of a panchayat shall be liable for the loss, waste or misapplication of any money or other property belonging to the panchayat if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the panchayat, and a suit for compensation may be instituted against him by the panchayat with the previous sanction of the District Magistrate or by the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir.

8. The duties of the panchayat shall be—

Duties of
the pancha-
yat.

(a) to perform any duty specifically assigned to it by this Regulation or by any rule or order made under this Regulation;

(b) generally to render such assistance to the District Magistrate in the discharge of his functions under this Regulation, as he may reasonably require.

9. The duties of the Chairman shall be—

Duties of
the Chair-
man.

(a) to convene and preside at all meetings of the panchayat, to control the transaction of business thereat, and to maintain a record of such business;

(b) to supervise the collection of the tax;

(c) to supervise the work of the servants of the panchayat;

(d) to conduct all correspondence on behalf of the panchayat;

(e) subject to the control of the panchayat to apply the town fund to any or all of the purposes prescribed by Section 24 ; and

(f) to perform such other duties as may be required of or imposed on him by or under this Regulation.

10. (1) The panchayat shall elect a Vice-Chairman from among its members whenever a vacancy occurs.

Election,
term of
office and
Designation
of Vice
Chairman,

(2) The term of office of the Vice-Chairman, shall be one year from the date of his election or the residue of his term of office as a member of the panchayat, whichever is less.

(3) If the Vice-Chairman wishes to resign he shall intimate in writing to the Chairman

his intention to do so, and on his resignation being accepted by the panchayat he shall be deemed to have vacated his office.

(4) In the absence of the Chairman his duties shall be discharged by the Vice-Chairman.

Town Servants.

Establishment list,

11. (1) The panchayat shall as soon as may be practicable prepare an establishment list of the permanent staff of tax collectors and other servants necessary for carrying out the purposes of this Regulation and of the duties, salary and allowances to be attached to the respective posts entered therein.

(2) The panchayat shall, when so required by the Town Magistrate from time to time, revise the establishment list prepared under sub-section (1).

(3) Every establishment list prepared under Sub-Section (1) or revised under Sub-Section (2) shall be confirmed by the Revenue Minister, and in the event of that officer refusing to confirm any establishment list, it shall be altered by the panchayat under his direction.

Appointment and control of permanent staff.

12. (1) The Chairman shall appoint the permanent staff prescribed in the establishment list.

(2) The Chairman may fine, suspend or dismiss any member of the permanent staff so appointed, subject in the case of the dismissal of any member of the staff whose pay exceeds Rs. 15 a month to confirmation by the Revenue Minister, who shall give the member of the staff who has been so dismissed an opportunity of representing his case.

Appointment and control of temporary staff.

13. The panchayat may prescribe the number and remuneration of such temporary staff as it may require to supplement the permanent staff.

Town servants to be deemed public servants,

14. Every town tax collector or other town servant permanently or temporarily appointed under this Regulation shall be deemed to be a public servant within the meaning of Section 21 of the Ranbir Penal Code.

Taxation and Town Fund.

15. The District Magistrate shall, after ascer-
taining the opinion thereon of the panchayat, an-
nually determine the amount required to be raised
in any town area for the purposes of this Regula-
tion, and the amount so determined shall be raised
by the imposition of a tax to be assessed on the oc-
cupiers of houses or lands within the limits of the
town area according either to their circumstances
or to the annual value of the houses and lands oc-
cupied by them, as the District Magistrate may
in like manner determine: Imposition
of town tax.

Provided that, in the case of a tax assessed
according to circumstances as aforesaid, the amount
assessed in respect of any person shall not exceed
seven rupees eight annas per month and in the case
of a tax assessed according to the annual value of
houses and land, the amount assessed in respect of
any house or land shall not exceed $6\frac{1}{4}$ per cent. of
the annual value of the house or land:

Provided also that, in case of any reduction of
taxation by the panchayat or whenever any in-
crease in taxation within the limits laid down in
the first proviso above is in the opinion of the
District Magistrate necessary to advance the stand-
ard of administration of the town area, the District
Magistrate may, after recording his reasons in
writing, refer the matter back to the panchayat for
its reconsideration. In case the panchayat after
further reconsideration disagrees with the opinion of
the District Magistrate, it shall state its reasons for
disagreement. Thereupon the District Magistrate
shall refer the whole case to the Revenue Minister
whose orders on the matter shall be final.

15-A. The tax to be raised may, in addition
to or in place of tax on circumstances and property
be of the following kinds:—

1. Modified Octroi known as Dharat in
Jammu Province.

2. The Zamini

3. Teh Bazari.

4. Lease of right to collect nightsoil or town refuse.

5. Registration fee on sale of cattle.

6. License of Vehicles.

7. Scavenging tax.

8. Water tax.

9. Registration of trade and traders and licence fees.

**Assessment
of tax,**

16. (1) Subject to any rule made in this behalf by the Government, the panchayat established for any town area shall, as soon as may be, prepare a list of the persons liable to pay the tax imposed under Section 15 and of the amounts to be paid respectively by such persons.

(2) The panchayat shall, when so required by the town Magistrate, from time to time revise the assessment list prepared under sub-section (1).

(3) Every assessment in a list prepared under sub-section (1) or revised under sub-section (2) shall be subject to confirmation by the town Magistrate, and any assessment which such Magistrate refuses to confirm shall be altered by the Panchayat under his direction.

(4) An assessment, when confirmed by the town Magistrate shall not be subject to alteration except upon revision of the assessment list under sub-section (2) or in pursuance of an order passed in appeal under the provisions of Section 19.

**Exemptions
from tax.**

17. Subject to any rules made in this behalf by the Government, the Revenue Minister may, by order, exempt in whole or in part from the payment of any tax imposed under this Regulation any person or class of persons or property or description of property.

**Publication
of assess-
ment list.**

18. The panchayat shall cause a copy of every assessment list prepared or revised under Section

16 and confirmed by the Town Magistrate to be posted in a conspicuous place within the town area and shall cause a register of assessments to be maintained at such place and in such manner as the District Magistrate may prescribe.

19. (1) Any appeal against the assessment or levy of any tax shall lie to the district Magistrate. Appeals from assessment or levy of tax.

(2) A court fee of 8 annas shall be payable on an appeal presented under sub-section (1) of this section.

(3) An appeal under the said sub-section shall not be admitted after the expiry of thirty days from the date of posting under Section 18, unless the appellant shows sufficient reason for failing to appeal within the said period.

(4) The decision of the appellate authority prescribed in sub-section (1) of this section shall be final and shall not be called in question in any court.

20. The tax shall be payable in such instalments, and each instalment shall become due on such date as the panchayat may, subject to any rules framed by the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir in this behalf, prescribe by notice posted in a conspicuous place within the town area : Payment of tax.

Provided that any person so desirous may pay the whole year's tax in advance.

21. On failure of any person to pay any instalment of tax on or before the specified date the panchayat shall, ordinarily within fifteen days of such date, cause a writ of demand to be served on the defaulter, or delivered at or affixed to his place of residence within the town area, or addressed by post to such place of residence or any other place where he may be known to reside. Any postal charges incurred under this section may be added to the arrear claimed and recovered as such. Writ of demand.

Recovery
of arrears.

22. Arrears of any tax imposed under this Regulation may be recovered, on the expiry of three weeks from the date of the issue of a writ of demand, on application to a Magistrate having jurisdiction within the limits of the town area or in any other place within the Jammu and Kashmir Provinces where the defaulter may for the time being reside, by the attachment and sale of any movable property belonging to such defaulter and within the limits of such Magistrate's jurisdiction.

Town Fund.

The Town
Fund.

23. For each town area there shall be formed a town fund, and there shall be placed to the credit thereof :—

- (a) the proceeds of any tax imposed under the provisions of this Regulation ;
- (b) all fines realised in cases in which prosecutions for offences committed within the limits of such town area are instituted under this Regulation or the rules made thereunder, or under Section 34 of the Police Regulation, 1983, or under any other Regulation or rules under any other Regulation, in which provision is made for the credit of such fines to the town fund ;
- (c) all sums ordered by a court to be placed to the credit of the town fund ;
- (d) the sale proceeds, except in so far as any private person is entitled to the whole or a portion thereof, of all dust, dirt, dung or refuse (including the dead bodies of animals) collected by the town servants ;
- (e) such portion of the rent or other proceeds of nazool property as the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir may direct to be placed to the credit of the town fund ;

(f) all sums received by way of loan or gift;
and

(g) Such other sums as may be assigned to the town fund by any general or special order of the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir.

24. Subject to any rules framed in this behalf ^{Control of town fund,} by the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir, the town fund shall be under the control of the panchayat and shall be applied to—

(a) the repayment of the principal and interest of any sum advanced as a loan by the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir for the purposes of this Regulation;

(b) the payment of the salary and allowances of the establishment entertained under this Regulation;

(c) the purchase of stationery and other contingent expenditure necessary for the purpose of this Regulation;

(d) the payment of expenses incurred for the maintenance of public roads not being roads of which the maintenance is undertaken by the Government.

(e) the payment of expenses incurred for the repair of public wells and tanks, or for the provision of an adequate supply of pure drinking water.

(f) the payment of expenses incurred generally for carrying out the sanitation, drainage, lighting and improvement of the town area; and

(g) the payment of any other sums which

the Government of His Highness the Maharaja Bahadur may by general or special order declare to be an appropriate charge on the town fund.

Custody of
town fund.

25. Subject to any rules made in this behalf by the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir, the chairman shall make arrangements for the proper custody of the town fund and for the remittance to such custody of all sums collected on behalf of or received to the credit of the town fund.

Power to
require Panchayat
to carry out
certain
orders.

26. The Government of His Highness the Maharaja Bahadur of Jammu and Kashmir may by order require a panchayat to carry out any scheme detailed in such order for protection against fire, for adequate supply of pure drinking water, for the drainage of the town area, for the improvement of the roads or conservancy of the town area.

CHAPTER IV.

POWRES FOR SANITARY AND OTHER PURPOSES.

Sanitation
orders.

27. The Panchayat may by general or special order in writing provide and if so advised by the Revenue Minister shall provide for all or any of the following matters within the town area, namely;—

- (a) the regulation of offensive callings or trades;
- (b) the disposal of corpses by burning or burial;
- (c) the repair or removal of dangerous or ruinous buildings;
- (d) the prohibition of the storage of more than a fixed quantity of petroleum in any building;
- (e) the regulation or prohibition of any description of traffic;

and with the previous sanction of the Revenue Minister—

- (f) the regulation of slaughter-houses;
- (g) the prohibition for reasons of public health of the use of any place for the sale of meat in default of a license granted by the panchayat or otherwise than in accordance with the conditions of the license;
- (h) the fixing of the conditions subject to which, the circumstances in which and the areas of localities in respect of which licenses for the sale of meat may be granted, refused, suspended or withdrawn.

28. The panchayat by general or special order in writing may provide, and if so advised by the District Medical Officer of health shall provide as advised, for all or any of the following matters within the town area:—

- (a) the protection from pollution and periodical examination of all sources of water used for drinking purposes;
- (b) the prohibition of the removal or use for drinking purposes of any water from any stream, well, tank, spring, or other source where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in of any well, tank, spring or other receptacle or by any other method that may be considered advisable;
- (c) the prohibition of the deposit or storage of manure, refuse or other offensive matter in a manner prejudicial to the public health, comfort or convenience;
- (d) the excavation of earth and the filling up of all excavations and depressions injurious to health or offensive to the neighbourhood;

- (e) the removal of noxious vegetation;
- (f) (1) protection against fire;
(2) the disposal or destruction of materials likely to convey infection;
- (g) the registration of births and deaths;
- (h) the condemnation and destruction of food which is unfit for human consumption;
- i) the prohibition for reasons of public health of the use of any place for the sale of fish, fruit, vegetables or sweetmeats in default of a license granted by the panchayat or otherwise than in accordance with the conditions of the license;
- (j) the fixing of the conditions subject to which and the circumstances in which and the areas or localities in respect of which licenses for the sale of fish, fruit, vegetables or sweetmeats may be granted, refused, suspended or withdrawn;
- (k) any other measures which may be necessary generally for the conservancy of the town.

CHAPTER V.

OFFENCES.

Breach of
sanitation
order.

29. Any person guilty of a breach of an order under Section 28 shall be liable upon conviction to a fine which may extend to ten rupees, and when the breach is a continuous breach with a further fine which may extend to two rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

30. Any person who wilfully removes, obliterates or destroys any name or number affixed by the panchayat under Section 28 shall be liable, upon conviction, to a fine which may extend to twenty rupees.

Removal
of names and
numbers
affixed to
streets and
houses.

31. Offences under this Regulation shall be triable by any Magistrate within whose jurisdiction any such offence may have been committed :

Jurisdic-
tion of court
to try offen-
ces.

Provided that no Magistrate other than the town Magistrate shall take cognizance of any offence punishable under this Regulation except with the previous sanction or on the complaint of the town Magistrate.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

32. If any panchayat refuses or omits to perform any prescribed duty, the town Magistrate may perform such duty, and any assessment made or revised or any other thing done by the town Magistrate in the exercise of the power conferred by this section may be enforced as if it had been made, revised or done by the panchayat.

Power of
town Magist-
rate to assume
functions of
panchayat.

33. (1) If, in the opinion of the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir a panchayat persistently makes default in the performance of the duties imposed on it by or under this or any other Regulation for the time being in force, or exceeds or abuses its powers, the Government of His Highness the Maharaja Bahadur of Jammu and Kashmir may, by an order published, with the reasons for making it, in the Jammu and Kashmir Gazette, declare that panchayat to be in default, or to have exceeded or abused its powers; and supersede it for a period not exceeding two years to be specified in the order.

Power to
supersede
panchayat
in case of
persistent
default of
abuse of
powers.

(2) When a panchayat is so superseded, the following consequences shall ensue :—

- (a) all members of the panchayat shall as from the date of the order vacate their offices as such members ;
- (b) all powers and duties of the panchayat may, during the period of supersession, be exercised and performed by the Town Magistrate ;
- (c) on the expiration of the period of supersession specified in the order the panchayat shall be reconstituted, and the persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for being members.

Power of
His Highness'
Government
to make rules.

34. (1) The Revenue Minister may make rules applicable to all or any town areas for carrying out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1) of this section, such rules may relate to all or any of the following matters or be for all or any of the following purposes :—

- (a) to regulate and control the powers conferred by this Regulation or by any rule made under this section on any officer of Government or on the panchayat ;
- (b) to prescribe for any such officer or for the panchayat, any duty in addition to those prescribed by this Regulation ;
- (c) to prescribe or regulate in respect of all or any town areas the number of members to compose the panchayats established therein ;
- (d) as to the term of office of any or all of the members of any panchayat, and as to the method of filling casual vacancies ;

- (e) as to the provision (if any) to be made for the special representation of any classes of the community.
- (f) as to the qualifications of electors and of candidates for election to the panchayat, as to the registration of such electors, as to the nominations of such electors, as to the nominations of such candidates, as to the time of election and mode of recording votes, as to the method of settling disputes or questions arising from elections, and generally for regulating all elections under this Regulation;
- (g) as to the custody of the town fund,;
- (h) as to the form in which any accounts are to be kept or any registers maintained;
- (i) as to the proportions in which the town fund shall be expended, and as to the preparation of estimates of income and expenditure;
- (j) as to the preparation of plans and estimates for works of construction involving expenditure from a town fund, and as to the authorities by whom, and the conditions subject to which, such plans and estimates may be sanctioned;
- (k) as to the returns, statements and reports to be submitted by the town Magistrate;
- (l) to regulate the imposition, assessment and collection of any tax imposed under this Regulation, and to prevent the evasion of the same;
- (m) as to the exemption from taxation of any person or class of persons or property or description of property.

No
e (3) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

HIS HIGHNESS' GOVERNMENT, JAMMU AND KASHMIR.



REGULATION No. II OF 1996.

—:O:—

**A Regulation to define and amend the Law relating
to the Sale of Goods.**

—:O:—



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JAMMU:

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HIS HIGHNESS' GOVERNMENT, JAMMU & KASHMIR.

PRAJA SABHA DEPARTMENT.

REGULATION NO. II OF 1996.

**A Regulation to define and amend the law relating to the
Sale of Goods.**

WHEREAS it is expedient to define and amend the law relating to the sale of goods; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Regulation may be called the Jammu and Kashmir Sale of Goods Regulation 1996.
Short title, extent and commencement.

(2) It extends to the whole of Jammu and Kashmir State.

(3) It shall come into force on such date as the Government prescribes.

2. In this Regulation unless there is anything repugnant in the subject or context—
Definitions.

(1) "Buyer" means a person who buys or agrees to buy goods;

(2) "delivery" means voluntary transfer of possession from one person to another;

(3) goods are said to be in a "deliverable state" when they are in such state that the buyer would under the contract be bound to take delivery of them;

(4) "document of title to goods" includes a bill of lading, dock-warrant, ware-house keeper's certificate, wharfingers' certificate, railway receipt, warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented;

(5) "fault" means wrongful act or default;

(6) "future goods" means goods to be manufactured or produced or acquired by the seller after the making of the contract of sale;

(7) "goods" means every kind of movable property other than actionable claims and money; and includes stock and shares,

growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale ;

(8) a person is said to be "insolvent" who has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due, whether he has committed an act of insolvency or not ;

(9) "mercantile agent" means a mercantile agent having in the customary course of business as such agent authority either to sell goods, or to consign goods for the purpose of sale or to buy goods, or to raise money on the security of goods ;

(10) "price" means the money consideration for a sale of goods ;

(11) "property" means the general property in goods, and not merely a special property ;

(12) "quality of goods" includes their state or condition ;

(13) "seller" means a person who sells or agrees to sell goods ;

(14) "specific goods" means goods identified and agreed upon at the time a contract of sale is made ; and

(15) expressions used but not defined in this Regulation and defined in the State Contract Regulation, 1977, have the meanings assigned to them in that Regulation.

3. The unrepealed provisions of the Contract Regulation IX of 1977, save in so far as they are inconsistent with the express provisions of this Regulation, shall continue to apply to contracts for the sale of goods.

Application of provisions
of Regulation No. IX of
1977.

CHAPTER II.

FORMATION OF THE CONTRACT.

Contract of Sale.

4. (1) A contract of sale of goods is a contract whereby the sale and agreement to sell. seller transfers or agrees to transfer the property in goods to the buyer for a price. There may be a contract of sale between one part owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

Formalities of the Contract.

5. (1) A contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such offer. The contract may provide for the immediate delivery of the goods or immediate payment of the price or both, or for the delivery or payment by instalments, or that the delivery or payment or both shall be postponed.

(2) Subject to the provisions of any law for the time being in force, a contract of sale may be made in writing or by word of mouth, or partly in writing and partly by word of mouth or may be implied from the conduct of the parties.

Subject-matter of Contract.

6. (1) The goods which form the subject of a contract of sale may be either existing goods owned or possessed by the seller, or future goods.

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods.

7. Where there is a contract for the sale of specific goods, the contract is void if the goods without the knowledge of the seller have, at a time when the contract was made, perished or become so damaged as no longer to answer to their description in the contract.

8. Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby avoided.

The Price.

9. (1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions, the buyer shall pay the seller a reasonable price. What is the reasonable price is a question of fact dependent on the circumstance of each particular case.

10. (1) Where there is an agreement to sell goods on the Agreement to sell at terms that the price is to be fixed by the valuation, valuation of a third party and such third party cannot or does not make such valuation, the agreement is thereby avoided: Provided that, if the goods or any part thereof have been delivered to, and appropriated by, the buyer, he shall pay a reasonable price therefor.

(2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain a suit for damages against the party in fault.

Conditions and Warranties.

11. Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

12. (1) A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty.

(2) A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated.

(3) A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(4) Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.

13. (1) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

(2) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof, or where the contract is for specified goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be

treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

(3) Nothing in this section shall affect the case of any condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

14. In a contract of sale, unless the circumstances of the contract are such as to show a different intention there is :—

Implied undertaking as to title etc.

(a) an implied condition on the part of the seller that, in the case of a sale, he has a right to sell the goods and that, in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass;

(b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods ;

(c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made.

15. Where there is contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description ; and if the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

Sale by description.

16. Subject to the provisions of this Regulation and of any other law for the time being in force, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows :—

Implied conditions as to quality or fitness.

(1) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be reasonably fit for such purpose :

Provided that, in the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose.

(2) Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be of merchantable quality ;

Provided that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed.

(3) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.

(4) An express warranty or condition does not negative a warranty or condition implied by this Regulation unless inconsistent therewith.

17. (1) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

Sale by sample.

(2) In the case of a contract for sale by sample there is an implied condition—

(a) that the bulk shall correspond with the sample in quality;

(b) that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;

(c) that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

CHAPTER III.

EFFECTS OF THE CONTRACT.

Transfer of property as between seller and buyer.

18. Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained.

Goods must be ascertained

19. (1) When there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

Property passes when intended to pass.

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

(3) Unless a different intention appears, the rules contained in sections 20 to 24 are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer.

20. Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of

Specific goods in a deliverable state.

payment of the price or the time of delivery of the goods, or both, is postponed.

21. Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.

22. Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

23. (1) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be express or implied, and may be given either before or after the appropriation is made.

(2) Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract.

24. When goods are delivered to the buyer on approval or "on sale or return" or other similar terms, the property therein passes to the buyer—

(a) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction ;

(b) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time.

25 (1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled. In such case, notwithstanding the delivery of the goods to a buyer, or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is *prima facie* deemed to reserve the right of disposal.

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together, to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange and if he wrongfully retains the bill of lading the property in the goods does not pass to him.

26. Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not:

Risk *prima facie* passes with property.

Provided that, where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault:

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party.

Transfer of Title.

27. Subject to the provisions of this Regulation and of any other law for the time being in force, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell:

Provided that where a mercantile agent is, with the consent of the owner, in possession of the goods or of a document of title to the goods, any sale made by him, when acting in the ordinary course of business of a mercantile agent, shall be as valid as if he were expressly authorised by the owner of the goods to make the same; provided that the buyer acts in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

28. If one of several joint owners of goods has the sole possession of them by permission of the co-owners, the property in the goods is transferred to any person who buys them of such joint owner in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

Sale by one of joint owners.

29. When the seller of goods has obtained possession thereof under a contract voidable under section 19 or section 19-A of the Contract Regulation IX of 1977, but the contract has not been rescinded at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title.

30. (1) Where a person, having sold goods, continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorised by the owner of the goods to make the same.

(2) Where a person, having bought or agreed to buy goods obtains, with the consent of the seller, possession of the goods or the documents of title to the goods the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have effect as if such lien or right did not exist.

CHAPTER IV.

PERFORMANCE OF THE CONTRACT.

31. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale.

32. Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller shall be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer shall be ready and willing to pay the price in exchange for possession of the goods.

33. Delivery of goods sold may be made by doing anything which the parties agree shall be treated as delivery or which has the effect of putting the goods in the possession of the buyer or of any person authorised to hold them on his behalf.

34. A delivery of part of goods, in progress of the delivery of the whole, has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole; but a delivery of part of the goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder.

35. Apart from any express contract, the seller of goods is not bound to deliver them until the buyer applies for delivery.

36. (1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract, goods sold are to be delivered at the place at which they are at the time of sale and goods agreed to be sold are to be delivered at the place at which they are at the time of the agreement to sell, or, if not then in existence, at the place at which they are manufactured or produced.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller.

37. (1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them but if the buyer accepts the goods so delivered he shall pay for them at the contract rate.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the goods so delivered, he shall pay for them at the contract rate.

(3) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are

in accordance with the contract and reject the rest, or may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties.

38. (1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments.

Instalment deliveries.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for, and the seller makes no delivery or defective delivery in respect of one or more instalments, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case, whether the breach of contract is a repudiation of the whole contract, or whether it is a severable breach giving rise to a claim for compensation, but not to a right to treat the whole contract as repudiated.

39. (1) Where, in pursuance of a contract of sale, the seller is authorised or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, or delivery of goods to a wharfinger for safe custody, is *prima facie* deemed to be a delivery of the goods to the buyer.

Delivery to carrier or wharfinger.

(2) Unless otherwise authorised by the buyer, the seller shall make such contract with the carrier or wharfinger on behalf of the buyer as may be reasonable having regard to the nature of the goods and other circumstances of the case. If the seller omits so to do, and the goods are lost or damaged in course of transit or whilst in the custody of the wharfinger, the buyer may decline to treat the delivery to the carrier or wharfinger as a delivery to himself, or may hold the seller responsible in damages.

(3) Unless otherwise agreed, where goods are sent by the seller to the buyer by a route involving sea transit, in circumstances in which it is usual to insure, the seller shall give such notice to the buyer as may enable him to insure them during their sea transit, and if the seller fails so to do, the goods shall be deemed to be at his risk during such sea transit.

40. Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer shall, nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit.

41. Where goods are delivered to the buyer which he has not previously examined, he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the

Buyer's right of examining the goods.

purpose of ascertaining whether they are in conformity with the contract.

(2) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

42. The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them.

43. Unless otherwise agreed where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them.

44. When the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods:

Provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

CHAPTER V.

RIGHTS OF UNPAID SELLER AGAINST THE GOODS.

45. (1) The seller of goods is deemed to be an "unpaid seller" within the meaning of this Regulation:—

(a) when the whole of the price has not been paid or tendered;

(b) when a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this Chapter, the term "seller" includes any person who is in the position of a seller, as, for instance, an

agent of the seller to whom the bill of lading has been indorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price.

46. (1) Subject to the provisions of this Regulation and of any law for the time being in force, notwithstanding that the property in the goods, may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law:—

(a) a lien on the goods for the price while he is in possession of them;

(b) in case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them;

(c) a right of re-sale as limited by this Regulation.

(2) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of with-holding delivery similar to and co-extensive with his rights of lien and stoppage in transit where the property has passed to the buyer.

Unpaid Seller's lien.

47. (1) Subject to the provisions of this Regulation the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases namely:—

(a) where the goods have been sold without any stipulation as to credit;

(b) where the goods have been sold on credit but the term of credit has expired;

(c) where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

48. Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien on the remainder, unless such part delivery has been made under such circumstances as to show an agreement to waive the lien.

49. (1) The unpaid seller of goods loses his lien thereon:—

(a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(b) when the buyer or his agent lawfully obtains possession of the goods ;

(c) by waiver thereof.

(2) The unpaid seller of goods, having a lien thereon, does not lose his lien by reason only that he has obtained a decree for the price of the goods.

Stoppage in transit.

50. Subject to the provisions of this Regulation, when the
Right of stoppage in transit. buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit, that is to say, he may resume possession of the goods as long as they are in the course of transit, and may retain them until payment or tender of the price.

51. (1) Goods are deemed to be in course of transit from the
Duration of transit. time when they are delivered to a carrier or other bailee for the purpose of transmission to the buyer until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

(2) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination, the transit is at an end.

(3) If, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent, the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them, the transit is not deemed to be at an end, even if the seller has refused to receive them back.

(5) When goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case, whether they are in the possession of the master as a carrier or as agent of the buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf, the transit is deemed to be at an end.

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf, the remainder of the goods may be stopped in transit, unless such part delivery has been given in such circumstances as to show an agreement to give up possession of the whole of the goods.

52. (1) The unpaid seller may exercise his right of stoppage ^{How stoppage in transit is effected.} in transit either by taking actual possession of the goods, or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice, to be effectual, shall be given at such time and in such circumstances that the principal by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer.

(2) When notice of stoppage in transit is given by the seller to the carrier or other bailee in possession of the goods, he shall redeliver the goods to or according to the directions of, the seller. The expenses of such redelivery shall be borne by the seller.

Transfer by Buyer and Seller.

53. (1) Subject to the provisions of this Regulation, the ^{Effect of sub-sale or pledge by buyer.} unpaid seller's right of lien or stoppage in transit is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto:

Provided that where a document of title to goods has been issued or lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for consideration, then, if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or stoppage in transit is defeated, and, if such last mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or stoppage in transit can only be exercised subject to the rights of the transferee.

(2) Where the transfer is by way of pledge, the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance, as far as possible, out of any other goods or securities of the buyer in the hands of the pledgee and available against the buyer.

54. (1) Subject to the provisions of this section, a contract ^{Sale not generally rescinded by lien or stoppage in transit.} of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or stoppage in transit.

(2) Where the goods are of a perishable nature, or where the unpaid seller who has exercised the right of lien or stoppage in transit gives notice to the buyer of his intention to re-sell, the unpaid seller may, if the buyer does not within a reasonable time pay or tender the price, resell the goods within a reasonable time and recover from the original buyer damages for any loss occasioned

by his breach of contract, but the buyer shall not be entitled to any profit which may occur on the re-sale. If such notice is not given, the unpaid seller shall not be entitled to recover such damages and the buyer shall be entitled to the profit, if any, on the re-sale.

(3) Where an unpaid seller who has exercised his right of lien or stoppage in transit re-sells the goods; the buyer acquires a good title thereto as against the original buyer, notwithstanding that no notice of the re-sale has been given to the original buyer.

(4) Where the seller expressly reserves a right of re-sale in case the buyer should make default, and, on the buyer making default re-sells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim which the seller may have for damages.

CHAPTER VI.

SUITS FOR BREACH OF THE CONTRACT.

55. (1) Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods.

Suit for price.

(2) Where under a contract of sale the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

56. Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may sue him for damages for non-acceptance.

Damages for non-acceptance

57. Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery.

Damages for non-delivery.

58. Subject to the provisions of Chapter II of the Specific Relief Regulation, 1977, in any suit for breach of contract to deliver specific or ascertained goods, the Court may, if it thinks fit, on the application of the plaintiff, by its decree direct that the contract shall be performed specifically, without giving the defendant the option of retaining the goods on payment of damages. The decree may be unconditional, or upon such terms and conditions as to damages, payment of the price or otherwise, as the Court may deem just, and the application of the plaintiff may be made at any time before the decree.

Specific performance.

59. (1) Where there is a breach of warranty by the seller, Remedy for breach of warranty. or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods, but he may:—

(a) Set up against the seller the breach of warranty in diminution or extinction of the price; or

(b) Sue the seller for damages for breach of warranty.

(2) The fact that a buyer has set up a breach of warranty in diminution or extinction of the price does not prevent him from suing for the same breach of warranty if he has suffered further damage.

60. Where either party to a contract of sale repudiates the Repudiation of contract before due date. contract before the date of delivery, the other may either treat the contract as subsisting and wait till the date of delivery, or he may treat the contract as rescinded and sue for damages for the breach.

61. (1) Nothing in this Regulation shall affect the right of Interest by way of damages and special damages. the seller or buyer to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover the money paid where the consideration for the payment of it has failed.

(2) In the absence of a contract to the contrary, the Court may award interest at such rate as it thinks fit on the amount of the price:—

(a) to the seller in a suit by him for the amount of the price—
from the date of the tender of the goods or from the date on which the price was payable;

(b) to the buyer in a suit by him for the refund of the price in a case of a breach of the contract on the part of the seller—
from the date on which the payment was made.

CHAPTER VII.

MISCELLANEOUS.

62. Where any right, duty or liability would arise under a Exclusion of implied terms and conditions. contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage is such as to bind both parties to the contract.

63. Where in this Regulation any reference is made to a reasonable time, the question what is a reasonable time is a question of fact.

Reasonable time, a question of fact.

64. In the case of a sale by auction—

Auction sale.

(1) where goods are put up for sale in lots, each lot is *prima facie* deemed to be the subject of a separate contract of sale ;

(2) the sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner ; and until such announcement is made any bidder may retract his bid ;

(3) a right to bid may be reserved expressly by or on behalf of the seller and, where such right is expressly so reserved, but not otherwise, the seller or any one person on his behalf may, subject to the provisions hereinafter contained, bid at the auction ;

(4) Where the sale is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person ; and any sale contravening this rule may be treated as fraudulent by the buyer ;

(5) the sale may be notified to be subject to a reserved or upset price ;

(6) if the seller makes use of the pretended bidding to raise the price, the sale is voidable at the option of the buyer.

65. Chapter VII of the Contract Regulation, 1977, is hereby repealed.

Repeal.

66. (1) Nothing in this Regulation or in any repeal effected thereby shall affect or be deemed to affect—

Savings.

(a) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Regulation, or

(b) any legal proceedings or remedy in respect of any such right, title, interest, obligation or liability, or

(c) anything done or suffered before the commencement of this Regulation, or

(d) any enactment relating to the sale of goods which is not expressly repealed by this Regulation, or

(e) any rule of law not inconsistent with this Regulation.

(2) The rules of insolvency relating to contracts of the sale of goods shall continue to apply thereto, notwithstanding anything contained in this Regulation.

(3) The provisions of this Regulation relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security.

CERTIFICATE.

The above Regulation was passed by the Jammu and Kashmir Praja Sabha on 27th March 1939/14th Chet 1995 and received the assent of His Highness the Maharaja Bahadur on 2nd June 1939/20th Jeth 1996.

(Sd.) HIRANAND RAINA,

Secretary to Government, Praja Sabha Department





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